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PROCEEDINGS

AND

DEBATES

OF THE

CONVENTION OF NORTH-CAROLINA,

CALLED TO AMEND

THE CONSTITUTION OF THE STATE,

WHICH ASSEMBLED

AT RALEIGH, JUNE 4, 1835.

TO WHICH ARE SUBJOINED

THE CONVENTION ACT

AND

THE AMENDMENTS TO THE CONSTITUTION,

TOGETHER WITH

THE VOTES OF THE PEOPLE.

RALEIGH :

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PROCEEDINGS, &c.

THURSDAY, JUNE 4, 1835.

The Convention elected for the purpose of revising the Constitution of the State, assembled this day, at 3 o'clock, P. M.

CHARLES MANLY, Esq. Principal Clerk of the House of Commons, attended by request, to organize the Convention.

The following Delegates elect appeared and produced their credentials :

- Anson*—William A. Morris, Joseph White.
- Ashe*—Alexander B. McMillan, George Bower.
- Beaufort*—Joshua Tayloe, Richard H. Bonner.
- Bertie*—David Outlaw, Joseph B. G. Roulhac.
- Bladen*—John Owen, Samuel B. Andres.
- Brunswick*—Frederick J. Hill, William R. Hall.
- Buncombe*—David L. Swain, James Gudger.
- Burke*—Burgess S. Gaither.
- Cabarrus*—Daniel M. Barringer, Christopher Melchor.
- Carteret*—Wallace H. Styrom.
- Caswell*—William A. Lea, Calvin Graves.
- Chatham*—Joseph Ramsay, Hugh McQueen.
- Columbus*—Alexander Troy, Absalom Powell.
- Craven*—William Gaston, Richard D. Spaight.
- Cumberland*—John D. Toomer, Archibald McDiarmid.
- Currituck*—Gideon C. Marchant, Isaac Baxter.
- Davidson*—John A. Hogan, John L. Hargrave.
- Duplin*—Jeremiah Pearsall, John E. Hussey.
- Edgecomb*—Louis D. Wilson, Phesanton S. Sugg.
- Franklin*—Henry J. G. Ruffin, William P. Williams.
- Granville*—Robert B. Gilliam, Josiah Crudup.
- Greene*—Jesse Speight, Thomas Hooker.
- Guilford*—John M. Morehead, Jonathan Parker.
- Halifax*—John Branch.
- Haywood*—William Welch, Joseph Cathey.
- Hertford*—Isaac Pipkin, Kenneth Rayner.
- Hyde*—Wilson B. Hodges, Alexander F. Gaston.
- Iredell*—Samuel King, John M. Young.

Johnston—Jesse Adams, Hillory Wilder.
Jones—William Huggins, James W. Howard.
Lincoln—Bartlett Shipp, Henry Cansler.
Macon—Benjamin S. Brittain, James W. Guinn.
Martin—Jesse Cooper, Asa Biggs.
Montgomery—John B. Martin, James L. Gaines.
Moore—John B. Kelly, Charles Chalmers.
Nash—John Arrington, William W. Boddie.
New Hanover—Lewis H. Marsteller.
Northampton—Roderick B. Gary.
Orange—James S. Smith, William Montgomery.
Pasquotank—Richard H. Ramsay.
Perquimons—Jonathan H. Jacocks.
Person—Moses Chambers, John W. Williams.
Pitt—Robert Williams, sen. John Joiner.
Randolph—Alexander Gray, Benjamin Elliott.
Richmond—Alfred Dockery, Henry W. Harrington.
Robeson—John W. Powell, Richard C. Bunting.
Rockingham—Edward T. Brodnax, John L. Lesueur.
Rowan—Charles Fisher, John Giles.
Rutherford—Joseph McD. Carson, Theodorick F. Birchett.
Sampson—William B. Meares, Thomas I. Faison.
Stokes—Matthew R. Moore, Emanuel Shober.
Surry—Meshack Franklin, William P. Dobson.
Tyrrell—Hezekiah G. Spruill, Joseph Halsey.
Wake—Henry Seawell, Kimbrough Jones.
Warren—Nathaniel Macon, Weldon N. Edwards.
Washington—Joseph C. Norcom.
Wayne—Gabriel Sherard, Lemuel H. Whitfield.
Wilkes—Edmund Jones, James Weliborn.

The Clerk pro tem. having finished the registration of the Delegates' names, and called on the Representation from Anson (the first county on the Roll) to come forward and take the prescribed oath :

Mr. WILSON, of Edgecomb, rose and observed, that supposing this the proper time to mention some difficulties which existed in his mind, and which he believed were entertained by other gentlemen, he would beg leave to state those difficulties. It was doubted by some, whether the Legislature had a right to impose the oath prescribed. Some are of opinion that if the oath be taken, members will be bound to concur in all the amendments proposed to the Constitution ; others suppose, that, after taking the oath, they will be at liberty to use their discretion in agreeing or disagreeing to any of the amendments. He was of opinion, that after taking the oath, he would be bound to adopt certain proposed amendments to the Constitution in relation to the reduction of the number of members, &c. though he might not be in

favor of such change. If any way could be pointed out of removing this difficulty, he hoped some gentleman present would do so. He should be glad to learn the proper construction to be put upon the oath. He thought it would be best to postpone taking it for the present, and refer the matter to a committee to make report on the subject; and for that purpose, he moved the appointment of a Chairman *pro tem*.

Mr. EDWARDS nominated Mr. SWAIN as Chairman *pro tem*.

Which motion being unanimously agreed to, he was accordingly conducted to the Chair by Mr. Edwards.

Mr. SEAWELL confessed, that he had paid but little attention to the Act for calling this Convention, having but once read it, and then in a newspaper; that from the difficulties which had been suggested by the gentleman from Edgecomb, for which there appeared to be some foundation, it might be well to adjourn, and afford time for considering the subject. His present opinion was, that a large majority of the people having determined on calling this body together to consider the propriety of adopting certain amendments to the Constitution, it was the proper business of the members now convened, to consider the policy and propriety of agreeing or disagreeing to the several propositions submitted. He did not consider the oath as binding members to do what they believed to be inexpedient. He thought the matter, however, required some deliberation, and he therefore moved an adjournment till to-morrow morning, 10 o'clock.

Mr. SPEIGHT, of Greene, hoped the gentleman from Wake would withdraw his motion, that members might interchange their views on this subject. He differed in opinion from that gentleman in relation to the oath prescribed. There can be no doubt that the oath binds those who take it, not to transcend the limits prescribed by the Act, and makes it imperative on them to alter the present Constitution in certain particulars. Though he approved of the motives of those who passed the Act calling this Convention, he differed in *toto* from the plan submitted. It was true that this plan had received the sanction of a majority of the people; but, in giving this sanction, the people had been influenced by a variety of motives. He had it in his power to offer a much preferable plan, and one that he believed would be more acceptable to the people, both of the East and West.

If the members of this body refuse to take the oath prescribed, the subject might be again submitted to the people; or if this body agree to make amendments to the Constitution different from those suggested in the Act of Assembly, and submit them to the people, and they agree to them, will they not be valid?

Mr. S. referred to what had been done by the Convention appointed to revise the old Confederation of the General Government, stating, that though they were appointed only to *revise* the old Confederation, they transcended their limits and actually

formed an entire *new Constitution*, and that Constitution was sanctioned by the people. And he thought if this Convention were to take a similar course, that the people would approve it.

Mr. WELLBORN thought the proper way of proceeding with the business on which they were to act, was to take up the subject agreeably to the plan suggested in the Act of Assembly, which had been submitted to and approved by the people. If the gentleman from Greene had any other plan to submit to the Convention, after it shall be legally organized, it will doubtless receive the consideration it may deserve. He hoped the present meeting would not adjourn until the Convention was legally organized. At present they were not a Convention, but merely an assemblage of private citizens, with a Chairman temporarily appointed to keep order.

Mr. EDWARDS observed, that this meeting possessed no powers but such as were given to it by the Act of Assembly under which it was called. Those powers are too plain to be misunderstood. [Mr. E. read the 13th section of the Act which points out the several objects which the Convention is authorised to consider.] After reading this section of the Act, said Mr. E. no member can be at a loss how to shape his course. His duties are plainly marked out, and he will conscientiously perform them. He trusted the meeting would proceed with the organization of the Convention, as until that was done we had no authority as a body. He felt no reluctance to take the oath prescribed, and to deliberate and act upon all questions which shall come before the Convention.

Mr. GASTON, of Craven, said, that it was with reluctance he opposed the proposition to adjourn. It was in general a popular motion, and when urged, as it is here, on the ground that gentlemen wanted time for consideration, courtesy rarely permitted it to be resisted. There were reasons, however, which weighed with him, and which he would take the liberty of stating, that rendered him unwilling to acquiesce in the proposed delay.

He concurred with the gentleman from Wilkes, in the opinion, that as yet the Convention was not formed. The Delegates elected to the Convention were about to take the preliminary measures for organizing that body, and difficulties being suggested, on which an interchange of opinion was necessary, and a discussion arising, it was found expedient, for the preservation of order, that one of the Delegates should act as Chairman pending the discussion. But, according to the plain language of the Act under which the Convention was called, there could be no Convention until the prescribed oath was taken. The 10th section declares that "no Delegate elect shall be permitted to *take his seat in the Convention* until he shall have taken and subscribed the following oath." If this provision were valid, none of us were yet in Convention. And why should its validity be ques-

tioned? The State Legislature had indeed no authority to impose an oath upon the members of the Convention, but the People had ratified the Act of the Legislature, by choosing Delegates under it. According to the theory of our Government, all political power was derived from the People, and when they choose to make a grant of power, they might make a plenary or a restricted grant, might give it all or in part. The Legislature by the Act proposed to the People a Convention, with the powers, restrictions and limitations set forth in the Act. It was, as it came from the Legislature, no more than a proposition or recommendation. It must originate somewhere, and with no body could it have originated with so much propriety as in that which represented the people for legislative purposes. The proposition having been sanctioned, it became an act of the people; but it has been sanctioned precisely as it was proposed. Such a Convention as is proposed in the Act of Assembly, and no other, has been called; and therefore that Act, so sanctioned, must be regarded as our power of attorney. If we transcend the limits, or refuse obedience to the conditions therein provided, we are not the Convention called by the people, but a self-constituted body.

It did seem to him quite obvious, that the Act contemplated that the Convention should be organized on this day. He would not say, for he had not formed such an opinion, that if we did not organize the Convention to-day we could not do so to-morrow; but it appeared to him, that if we neglected to perform this duty, we should depart from the spirit of our instructions, and might give rise to doubts as to the validity of our subsequent action. In a matter of such deep concernment to the community, it was safe to adhere both to the letter and spirit of the Act. The 9th section declares, that the Delegates shall *convene* on this day, "the first Thursday of June." It makes provision for an omission to convene on this day in one case, and in one only: "provided, that if a quorum does not attend on that day, the delegates may adjourn from day to day until a quorum is present, and a majority of the delegates elect shall constitute a quorum to do business." It is ascertained that a majority of delegates is present; the case, therefore, in which the right is given to adjourn *as delegates*, as an unformed body, has not occurred. Can we be said to have *convened*, within the meaning of the Act, until we are formed into a Convention? For one, he was unwilling to risque the consequences of declining to organize the Convention on the day prescribed in the Act.

He would not pursue the enquiry which had been entered into by the gentleman from Greene, as to the effect of our proceedings, should we throw off the limitations imposed on us, form a Constitution, submit it to the people, and it should be approved by a majority of their suffrages. This would present a state of things never yet witnessed in our country. No doubt the peo-

ple, as a collective body, assembled in Convention for that purpose, can adopt a Constitution and make it their's, by whomsoever and wheresoever it were drafted. But they do this, acting collectively, and not as individuals voting at the polls. It was true, as stated by that gentleman, that the Convention which framed the Federal Constitution exceeded their powers, and therefore the Constitution as framed by them was regarded only as a proposition. It is said to have been submitted to the People in the several States, and when ratified by them to have become a Constitution; but how was it submitted to the people? They were not called to vote upon it as individuals. The proposed Constitution was presented to the then Congress of the United States, and by the Congress to the State Legislatures. Conventions of the People were then called in each State, to deliberate on the adoption or rejection of it. Adopted by the People in Convention, it became a Constitution.

He deemed it altogether irrelevant now to enquire into the effect of the oath which had been prescribed. It was enough that the people, who have delegated us to act in their behalf on the grave matters submitted to them, have demanded of us, as a prerequisite to our existence as a body, to take, as individuals, an oath for the faithful performance of our duties. When it shall have been taken, each individual must then act according to the best dictates of his conscience, and with a solemn sense of his responsibility to that Great Being to whom he shall have made his religious appeal.

After some further desultory remarks, the Yeas and Nays were taken on the question, "Shall the meeting proceed to organize the Convention?" Which was carried—86 to 22 votes:

YEAS—Messrs. Morris, White, M'Millan, Bower, Tayloe, Bonner, Outlaw, Roulliac, Owen, Andres, Swain, Gudger, Gaither, Barringer, Melchor, Lea, Graves, Ramsay, of Chatham, M'Queen, Troy, Powell, of Columbus, Gaston, of Craven, Spaight, of Craven, Toomer, M'Diarmid, Marchant, Baxter, Hogan, Hargrave, Pearsall, Hussey, Ruffin, Williams, of Franklin, Gilliam, Crudup, Morehead, Parker, Branch, Cathey, Welch, King, Young, Adams, Wilder, Huggins, Howard, Shipp, Cansler, Brittain, Guinn, Martin, Gaines, Kelly, Chalmers, Boddie, Gary, Smith, of Orange, Montgomery, Ramsay, of Pasquotank, Chambers, Williams, of Person, Gray, Elliott, Dockery, Harrington, Brodnax, Lesueur, Fisher, Giles, Carson, Birchett, Meares, Faison, Shober, Moore, Dobson, Franklin, Seawell, Jones, of Wake, Macon, Edwards, Norcom, Sherard, Whitfield, Jones, of Wilkes, and Wellborn—86.

NAYS—Messrs. Hill, Hall, Rayner, Biggs, Williams, of Pitt, Spruill, Styron, Wilson, of Edgecomb, Hodges, Arrington, Joyner, Halsey, Sugg, Speight, of Greene, Gaston, of Hyde, Marsteller, Powell, of Robeson, Hooker, Pipkin, Cooper, Jacocks, and Bunting—22.

The members, without exception, then took the oath prescribed, which was administered by JOHNSTON BUSBEE, Esq. a Justice of the Peace for Wake county. After which,

Mr. BRANCH moved that the HON. NATHANIEL MACON be appointed President of the Convention; which motion was agreed

to unanimously—and Mr. Macon was conducted to the Chair by Messrs. Branch and Owen. On taking which, he briefly addressed the meeting in terms as follows, as nearly as we could collect, for he spoke in a low tone of voice.

“My Friends and Countrymen ;

“My powers are weak, and I fear I shall not be able to fulfil the arduous duties of presiding over this important deliberative body, either satisfactorily to myself or acceptably to you. It being some time since I retired from public life, I am sensible that I shall be found rusty in the Rules of Proceedings ; and will therefore, in advance, invite correction from my friends in the Convention, which I shall always thankfully receive. I would respectfully, though earnestly, press upon the attention of every member of the Convention the necessity of mutual forbearance and good temper in the prosecution of the business committed to this body by our constituents, who have selected us to act not only on their behalf, but for the benefit of posterity ; and I pray that each of us, with an eye single to the welfare of our common country, may cordially unite in such measures as will redound to the glory and happiness of North-Carolina.”

Mr. OWEN proposed that the Convention should proceed to the election of two Secretaries to the Convention, and nominated Gen. William J. Cowan of Bladen, and Edmund B. Freeman of Raleigh, to fill those appointments.

Mr. FISHER enquired whether the gentleman from Bladen intended that these Secretaries should be considered as occupying the same grade, or that one should be appointed Secretary, and the other Assistant Secretary.

Mr. OWEN replied, that he meant that they should both be considered as Secretaries of the same rank, and be left to apportion the duties between themselves, as might be found convenient.

Mr. FISHER thought it would be best for the Convention to designate their duties, and name one of them Secretary and the other Assistant Secretary ; and made a motion to that effect.

The further consideration of the subject, on motion, was postponed till to-morrow.

FRIDAY, JUNE 5, 1835.

The PRESIDENT took the Chair at 10 o'clock. After the minutes of the proceedings of yesterday were read by Mr. Manly, Messrs. James W. Bryan, of Carteret, Jesse Wilson, of Perquimons, John L. Bailey, of Pasquotank, and D. W. Sanders, of Onslow, Delegates elect to the Convention, appeared, were qualified at the Clerk's table, and took their seats.

The **PRESIDENT** stated the question before the Convention at its adjournment, to be the appointment of two Secretaries.

Mr. FISHER reminded the President that he had moved an amendment to the original proposition, designating one of the officers as Secretary, the other as Assistant Secretary. He could not see how two Secretaries of the same grade could act together. It was usual in all Legislative bodies, where two Secretaries were employed, to designate one as Secretary, to keep the Journal, and the other as Assistant Secretary, to read bills, &c. Without such designation, said Mr. Fisher, difficulties would arise in allotting to each his appropriate duties. Neither being subordinate to the other, interruption to the business of the Convention might be the consequence of no one's knowing who was the head of the Secretary's department—they might as well appoint two Presidents as two Secretaries, without designating either as Principal.

Mr. DOBSON said no difficulty need be apprehended on that score, as he was authorised to say the gentlemen in nomination would so arrange the duties between themselves, as that each should perform, and be answerable for, a definite branch of duties.

Mr. BRYAN said there was precedent for the appointment of two Secretaries, as proposed by the motion. In the Convention in 1789, if he were not mistaken, there were two Secretaries, without either being designated as Principal.

Mr. WELLBORN said it was true that there were two Secretaries in the old Convention, as stated by the gentleman from Carteret; but each had clearly defined duties assigned him. It was the almost universal custom in deliberative bodies, to have a Principal and Assistant Clerk, or Secretary; and Mr. W. said he was not for departing from the good old rule.

Mr. SMITH, of Orange, said he thought all difficulty about this matter might be obviated, by naming one as *Reading*, and the other as *Recording* Secretary—as he understood there was a disinclination on the part of each of the gentlemen in nomination, to occupy a subordinate station; and Mr. S. moved to modify the motion accordingly.

Mr. CARSON, of Rutherford, was in favor of the original (Mr. Fisher's) amendment. In Congress, in all Legislatures, and nearly all other deliberative bodies, it was customary to have first and second, or Principal and Assistant Clerks or Secretaries; and, in this particular, at least, he went for "safe precedents."

Mr. FISHER's amendment finally prevailed; and it was determined the Secretaries should be distinguished as Principal and Assistant.

Mr. OWEN explained his motives for offering the motion in its original shape; and concluded by nominating William J.

Cowan, as Principal Secretary. Mr. Fisher nominated Edmund B. Freeman for the same situation. The nominors being appointed a balloting committee, collected the ballots, and reported, that of the 115 votes cast,

E. B. Freeman had received	-	-	-	58
W. J. Cowan	-	-	-	56
Blank	-	-	-	1

EDMUND B. FREEMAN was accordingly declared duly elected, and assumed his duties at the Clerk's Table.

Mr. MARSTELLER then nominated Joseph D. Ward for Assistant Secretary; and Mr. Wellborn nominated Thomas L. West for the same situation. On balloting, there appeared for

Ward	-	-	-	-	53 votes
West	-	-	-	-	42
Blank	-	-	-	-	15

JOSEPH D. WARD was then declared duly elected Assistant Secretary.

GREEN HILL and JOHN COOPER were then elected Door-keepers.

Mr. GILES moved the following Resolution :

Resolved, That the Convention proceed to the election of Printer.'

Mr. SMITH, of Orange, thought it would be best to appoint a committee of three members of the Convention to take charge of this business, who would have the printing done on the best terms, and then audit the account.

Mr. COOPER, in order that the subject might be duly considered, moved that the Resolution, for the present, lie on the table.

Mr. GILES asked the gentleman from Martin to withdraw his motion for a moment, that he might make an addition to his proposition.

Mr. COOPER consenting,

Mr. GILES then moved the following :

Resolved, That the Convention proceed to the election of a Printer, and that the prices for printing shall be the same as are paid by the General Assembly, and that the accounts for printing shall be audited by the same Board (consisting of the Heads of Departments) which audits the accounts of the printing done for the Legislature and Public Offices.

Mr. M'DIARMID moved to amend the Resolution so as to employ the Public Printer of the State to execute the printing for the Convention at the same rate at which the printing for the State is executed.

Mr. MOREHEAD said he was opposed to the proposition of the gentleman from Cumberland for several reasons. The Legislature, under whose authority this body is met, intended that we should be an economical body. We ought not, therefore, to

pay so much for our printing as they pay. If the business were left open, competition might enable us to get our work done at a cheaper rate than if it were given to the Printer to the State.

Mr. WELLBORN was unwilling to place the printing of the Convention in any hands in which he could not have confidence that it would be faithfully executed. He was clearly in favor of the Convention having a Printer of its own. He thought the course pursued by the gentleman from Rowan (Mr. Giles) was the proper one.

Mr. SMITH moved to amend the Resolution of the gentleman from Rowan, by striking out all after the word "Resolved," and inserting "that a committee of three Delegates be appointed to contract with some suitable person for the printing required by the Convention."

Mr. S. thought the printing might be done in this way at the cheapest rate, and without exciting any thing like party spirit, which he was desirous of avoiding in all questions which may arise in this Convention. He hoped every gentleman would take the sovereign law in his hand and consider only what would best promote the public good.

Mr. COOPER agreed in opinion with the gentleman from Orange.

Mr. BRANCH was opposed to the amendment, and in favor of the original Resolution. If, said he, we elect an officer of our own, we shall have security that our business will be well done. We shall, in that case, have justice done to our cause; the arguments used in support of our proceedings will also be fairly given to the public, and all misapprehension in relation to our doings will be avoided.

Mr. GILES could not agree to the amendment proposed by the gentleman from Orange. How could a Committee enter into a contract with any Printer for executing the work of the Convention, when no one could tell what work would have to be done? The gentleman says, he wishes to avoid any thing like political excitement. To avoid this, it would be best to appoint no Committee on the subject, for the Committee would scarcely be expected to be clear from party feelings. It will be best for the Convention to appoint its own Printer, without employing any Committee in the business. Whatever feeling was excited in this body, he trusted would be favorable to the interests of the State, and then no one would regret to see it. A portion of proper excitement may prove useful in promoting a spirit of patriotism and enterprize amongst our citizens, which cannot fail to increase their prosperity and happiness.

Mr. SMITH, of Orange, was perfectly willing to take the original proposition; but he objected to placing the business in the hands of the Public Printer. He had supposed that there would have been no objection to entrusting the business to a Com-

mittee of three members of this body, who would have agreed with some Printer to execute the work at certain fair prices.

Mr. HOGAN objected to the proposed amendments. He was for adopting the original Resolution.

Mr. RAMSAY, of Chatham, said, that no Printer could undertake to execute the Printing of the Convention for any fixed amount, until he knew what was to be done. Any sum that might be named, in the very nature of things, must operate injuriously either on the Printer or the State.

Mr. FISHER duly appreciated the motives of his friend from Orange, (Mr. Smith,) though he could not coincide with him in opinion. There was a right and a wrong way of managing business, and when we have determined what is the right course, we should not be driven from it because some fancied difficulty stands in the way. He was opposed to the employment of a Committee of this body to go about the streets of this city for the purpose of huckstering with the several Printers, to execute our printing. Would his friend from Orange like to be engaged in a business of this kind? To visit the different Offices, in order to beat Printers down below the proper and regular price for their work. We do not want to have our business done for less than its value, and an honest man will not charge more.

It has been proposed, said Mr. F. to employ the State Printer to do the work of this body. To this he objected. This Convention is separate and distinct from the Legislature; it is direct from the people, and ought to have a Printer of its own. He could not see any propriety in employing an individual because the Legislature had employed him. If, indeed, it be thought that he can do the business better than any other person, let him be chosen by ballot; but if the members of this Convention think otherwise, they will act accordingly.

Mr. F. said he had this morning looked into the proceedings of the Virginia Convention, recently held, and he found that a proposition similar to that offered by the gentleman from Orange, was introduced, and the same arguments advanced in support of it, as are now urged by him; but it was voted down by a large majority, and a Printer was elected. It would be as proper, in his opinion, to appoint a Committee to enquire where pens and paper might be most cheaply furnished, as to pursue that course with regard to the Printing.

Mr. SMITH, of Orange, said he was an old-fashioned man, and had not the advantage of all the new lights which other gentlemen possessed, and it was because he was old-fashioned, that he deprecated the whole system of electioneering, caucusing, &c. He recollected the time when *he* was employed on a Committee, in behalf of the Congress of the United States, to procure the printing of that body by contract. He did not then, nor did he now, think it derogatory to him, as a public servant, to consult

economy in the expenditure of the public money. All that he desired was to have the labor well done, and at a moderate price. When the printing of Congress was done by contract, there was none of the excitement and bad feeling which now invariably arises, whenever a Printer is to be chosen.

Mr. FISHER recollected the course taken by Congress, to which the gentleman from Orange alluded, and that, after trial, it was changed to the system which at present prevails. Certain prices have been fixed for the various kinds of printing executed, and the Senate and the House of Representatives each appoints its own Printer. He was as much in favor of economy in all the expenses of this body as the gentleman from Orange; but he thought this object would be best attained by the direct appointment of its own Printer.

The question was taken on employing the Public Printer, and negatived by a large majority.

The original Resolution being now before the Convention,

Mr. MOREHEAD supposed it would be necessary to appoint a Committee to audit the accounts for the contingent expenses of this body, and he thought this Committee could also audit the account for printing, as well as others. He therefore moved to strike out that part of the Resolution which proposes to refer this matter to the Heads of Departments of the Government. He deemed it unnecessary to trouble these gentlemen with any part of the proper business of this body.

Mr. SWAIN did not intend to take any part in this debate, except to state a single fact. The principal work to be done by the Printer will probably be to print and distribute 40 or 50,000 copies of the Constitution, as amended, amongst the people of the State for their information, the expense of which will depend upon the style of printing, &c. The Convention could not remain in session till this work was done; and it would be necessary, therefore, he presumed, that other persons, than a Committee of this House, should be fixed upon to audit the account for this service.

Mr. RAMSAY, of Chatham, moved to strike out the whole of the Resolution before the Convention, except the word "Resolved," and insert the following:

"That this Convention proceed to elect a Printer to execute the Printing of this body, and that he be allowed therefor the customary established price of printing."

Mr. SEAWELL thought it unnecessary for the Convention to spend so much time in fixing the manner and price of executing the Printing. All that this body is required to do, is to return to the Governor an account of the contingent expenses, and he is directed to issue his warrant therefor. It was necessary to have printing done; but we had nothing to do about the price of

it. The proper charge, he supposed, would be made, and the Governor would pay it.

Mr. TOOMER remarked, that in listening to the course of this debate, he had been forcibly reminded of the homely though significant couplet,

“Strange there should such difference be
’Twixt tweedle-dum and tweedle-dee.”

It is only necessary to ascertain the true construction of the 11th section of the Act of the last session concerning this Convention. What is the Treasurer authorised by that section to pay. He is directed to pay to each member of this body a dollar and a half per diem. There is a prior clause of the section authorising him to pay, on the warrant of the Governor, such sums of money as may be necessary for the contingent charges of the Convention. Our expenses are therefore to be paid, not by ourselves, but by others, and they will be able to determine on the reasonableness of the charges made. If a Printer to this body be deemed necessary, all that we have to do, is to appoint him, and to send to him such printing to execute as may be deemed necessary by the Convention—the payment will be left to the Executive, who will issue his warrant for the amount, and he was willing to leave the matter to his discretion.

Mr. BRANCH said, he took a somewhat different view of the subject from the gentleman from Cumberland. It is true, that the Governor is authorised by the Act in question, to issue his warrant for the contingent expenses of this Convention; but he presumed it is for the Convention to state to the Governor what the amount of those expenses is. This statement will be required from the Officers of this Convention, before the Governor issues his warrant for its payment.

The question on the amendment proposed by the gentleman from Chatham, was put and negatived.

Mr. MOREHEAD moved to strike out that part of the original motion which referred the auditing of the Printer’s account to the Heads of Departments.

Mr. GILES, the mover, consented to withdraw this portion of the Resolution.

The question was now simply, “That the Convention elect a Printer to their body.”

Mr. CARSON, of Rutherford, said, there appeared to be some difference as to the proper construction to be given to the 11th section of the Convention Act. The best method of proceeding will be, to elect a Printer, and leave his account to be audited in such manner as the Convention may hereafter direct.

The question, “Shall the Convention now proceed to the election of a Printer,” was put and decided in the affirmative.

Mr. SMITH, of Orange, moved that the Convention proceed to the election of this Officer, without a nomination, which proposition did not carry.

Mr. WELLBORN nominated *Joseph Gales & Son*, for the appointment.

Mr. CHAMBERS nominated *Philo White*, but before the balloting commenced, his name was withdrawn.

The ballots were then collected, and on being counted, were :

For Gales and Son,	-	-	76
Philo White,	-	-	19
Lawrence & Lemay,	-	-	11
Blanks,	-	-	9

So Joseph Gales & Son were declared to be duly elected.

Mr. KING moved the following Resolution, accompanied by some remarks, which the position of the Reporter prevented him from hearing distinctly :

Resolved unanimously, That each day of the session of the Convention be opened by Prayer to Almighty God, for his blessing ; and that all regular Preachers of the Gospel, of any denomination, who may be present during the session, be requested to take a seat within the Bar of this House during Prayer, one of whom shall be requested by the President to perform that service.

The Resolution was *unanimously* adopted.

Mr. MOREHEAD remarked, that the sooner they "cut out" their work, the sooner they would become engaged in its performance. He therefore offered sundry Resolutions, referring the different parts of the Act of the Legislature under which this Convention was called, to separate Select Committees.

Mr. FISHER said, that the Act imposed different classes of duties on this Convention : one class was absolute, imperatively requiring their action ; another was discretionary, leaving it to their sound judgment whether they would exercise the authority given them, or leave those parts of the Constitution untouched. It therefore appeared to him, said Mr. F. that certain parts of the Act in question might be referred to Committees, as desired by the gentleman from Guilford ; but in regard to other parts, it seemed to be requisite that the Convention should settle certain general principles before Select Committees could act efficiently on them.

Mr. JACOBS offered a Resolution for the appointment of a Committee to report, 1st. The votes taken in each county in the State at the recent election on the Convention question. 2d. The number of *white* persons in each county agreeably to the last Census. 3d. The number of slaves and persons of color also. 4th. The Federal population of each. 5th. The number of white and black polls, and free persons of color. 6th. The amount of taxes from every source, separately designated.

Mr. EDWARDS rose and remarked, that they were about to enter upon the discharge of the important duties, for the performance of which they had been sent here by their constituents. They were to deliberate on measures of lasting concernment; whether for the weal or woe of those who might come after them, would depend upon the *manner* which they might discharge the high trust confided to them. In order, therefore, that they might get at the important business of the Convention as soon as practicable, and proceed systematically with it, Mr. E. said, he would offer the following Resolution for the consideration of the Convention:

Resolved, That a Committee be appointed to report the manner in which it will be expedient to take up the business of the Convention.

Mr. SPEIGHT, of Greene, remarked, that he believed the Convention which formed the old Constitution, was first taken up in Committee of the Whole, and there a reference was made of the different subjects to their appropriate committees. Mr. S. was opposed to referring all the different subjects, requiring the action of the Convention, immediately to Select Committees.

The Resolutions were laid on the table, and the Convention adjourned, to meet at the Presbyterian Church, 12 o'clock tomorrow.

SATURDAY, JUNE 6, 1835.

The President took the Chair at 12 o'clock, M. After the Journal of yesterday's proceedings had been read by the Secretary, the following Delegates appeared, were qualified, and took their seats: Joseph J. Daniel, of Halifax, Samuel Calvert, of Northampton, Reddick Gatling and Whitmel J. Stallings, of Gates, James M. Hutcheson and Isaac Grier, of Mecklenburg, Abner Jervis and Bacchus J. Smith, of Yancy, and James Cox, of Lenoir.

Mr. EDWARDS moved to take up the Resolution offered by him yesterday, for the appointment of a Committee to arrange the business of the Convention, &c. Mr. E. remarked, that the object, and indeed necessity, of some such course as his Resolution proposed, which he now took the liberty of asking the Convention to consider, must be apparent to every member present. The most ready plan of getting at their business, was what he aimed at. He wished to take hold of their work boldly, with as little delay as possible; and for that purpose, he hoped his Resolution would be taken up.

The Convention having agreed to take up and consider the Resolution,

Mr. EDWARDS said, it was his desire a Committee should be appointed, whose duty it would be to devise and report the best

mode of proceeding to the business of the Convention ; of pointing out the manner in which they should break ground in the important work before them ; and which should, as it were, lay the ground-work of the political fabric which the people had sent them here to build up. In the Virginia, as well as the New-York Convention, the business of the Convention was brought before it in the same manner as he now proposed. Individual members would not be likely to devise so good a plan of proceeding as a Committee, who would have the benefit of the concentrated ideas of all the members ; a comparison of whose views and plans would thus take place, and a mode of procedure be collated and presented to the Convention, which would distinctly exhibit the separate classes of duties devolving upon it, ready to be referred to appropriate Committees. Mr. E. had no particular partiality for his own plan ; but was willing to adopt any other which was calculated to expedite the business before the Convention. His great desire was to despatch the important business before them, to harmonize the long conflicting interests between different sections of the State, and thus contribute to the well-being of our Commonwealth, and the happiness and prosperity of all the people.

Mr. BRANCH thought the business of the Convention could be more readily and more satisfactorily arranged in Committee of the Whole, than by a Select Committee. Whatever plan might be agreed upon in Committee of the Whole, would be the plan of the Convention, while in the other case it would be that of a Committee only.

Mr. FISHER was in favor of Mr. Edwards' motion, for referring the whole matter to a Select Committee. So diverse were the opinions of members, said Mr. F., that he considered it impracticable for the whole Convention to digest any plan of procedure ; the body was too large and unwieldy for that purpose ; a Select Committee could perform that task with much more facility, and thus obviate our present difficulty.

Mr. EDWARDS said, any plan which the Committee might propose, would become the plan of the Convention, when adopted by it. A Committee might very soon arrange and systematise the business to come before the Convention, while the Convention itself might discuss the matter for days, without agreeing to any mode of procedure.

Mr. SPEIGHT, of Greene, thought that all the gentlemen who had spoken on this question, were desirous of effecting one common result, although they differed in their ideas of the best mode of doing the same thing. He thought the better plan would be to go into Committee of the Whole, to take the sense of the Convention on, and settle, certain general principles, before the various subjects were referred to Select Committees.

Mr. M'QUEEN said, no plan could be presented which would not produce discussion; and perhaps benefit would grow out of that discussion, however wide its range. He thought the proposition of the gentleman from Warren, the best calculated to abridge the labors of the Convention. Unless we have some general course of proceeding laid down, we shall be on a broad sea, without pilot or compass. He was opposed to going into Committee of the Whole. We should there have the same discursive debate now complained of; and where would it end?

Mr. SWAIN said, the precedents which had been alluded to, drawn from the proceedings of the New-York and Virginia Conventions, were not applicable to ours. They had, as it were, a *carte blanche* to remodel the whole fundamental law of the State; whereas we are restricted, and our action is circumscribed within certain limits. He conceived it necessary to refer the whole subject to a Select Committee, that the business might be arranged for the ready and convenient action of the Convention.

Mr. SMITH, of Orange, thought that it would be the best plan to take up the whole subject in Convention. Such parts of the law as required clearly defined duties of the Convention, could be referred to Select Committees, while the Convention would have enough left to keep them busy in the mean time—discussion could proceed in regard to the discretionary powers of this body; thus affording members an opportunity of letting off some of the surplus gas, which evidently seeks vent here; and the sooner it escaped the better. Mr. S. moved to lay the Resolution on the table.

Mr. SHOBER was in favor of the appointment of a Committee, as proposed in the Resolution, and of referring part of the business to the Committee; the balance to be left for discussion in Convention.

Mr. EDWARDS' Resolution was finally laid on the table.—
Ayes 64.

Mr. MOREHEAD called up his Resolutions, offered yesterday, referring to sundry Select Committees certain parts of the Convention Act; and moved that each Committee be composed of thirteen delegates, one from each Congressional District, to be selected by the delegates themselves.

Mr. DANIEL was opposed to referring these subjects to Select Committees, but was willing the whole business should be taken up in Committee of the Whole. His remarks were indistinctly heard. He moved to lay the Resolutions on the table.

Mr. GASTON, of Craven, remarked, that complaints had been made of too much discussion on this floor; but he thought otherwise—he believed that too much had not been said. We had done very little, to be sure; but in this case the old adage would apply—"the more haste, the less speed." Subjects of great magnitude are to be considered; discussion leads to an exposi-

tion of the views of members in regard to the important matters upon which they were now called to act. A free interchange of sentiments was profitable, and subjects for reflection would be presented to the members by such a course. Mr. G. thought a Select Committee best calculated to devise a plan or scheme for proceeding with the business of the Convention.

The Resolutions were finally laid on the table. Ayes 64.

On motion of Mr. SWAIN, Mr. Edwards' Resolution was taken up and adopted; the following gentlemen, one from each Congressional District, were appointed to compose the Committee, viz: Messrs. Bailey, Branch, Williams, of Pitt, Gaston, of Craven, Meares, Edwards, Toomer, Smith, of Orange, Morehead, Fisher, Barringer, Swain and Franklin.

On motion of Mr. FISHER, the Convention adjourned till Monday, 10 o'clock.

MONDAY, JUNE 8, 1835.

The meeting of the Convention, in conformity with a previous Resolution, was this morning opened with Prayer by the Rev. Dr. M'Pheeters, of the Presbyterian Church.

The following additional members appeared, were qualified, and took their seats: Messrs. J. B. Skinner, of Chowan, Owen Holmes, of New-Hanover, S. T. Sawyer, of Chowan, and Josiah Collins, jun. of Washington.

Mr. SPAIGHT, of Craven, from the Committee on the subject, reported Rules of Order for the government of the Convention; which being read the first and second time,

Mr. SWAIN moved to amend the 17th article, so as to allot all the space on the floor east of the outer range of pillars, together with the galleries, for the accommodation of spectators.

Mr. BRANCH was opposed to the amendment. Filling up the avenues with spectators in hot weather, would much incommode the members in their business; there was ample room in the galleries for visitors.

Mr. SPAIGHT, of Craven, was also opposed to the amendment.

Mr. SMITH, of Orange, was opposed to the amendment. A throng of visitors on the floor, would add greatly to the heat of the room: diseases had been generated by crowding people too closely together in hot weather.

Amendment lost.

Mr. WILLIAMS, of Franklin, moved to amend, by giving the President the discretion to invite ladies to take seats on this floor, as well as Ministers of the Gospel.

Mr. GASTON, of Craven, opposed this amendment. Ladies would feel a delicacy in coming here unattended by their *beaux*; and we have already voted to exclude the latter.

Amendment lost.

Mr. MOREHEAD moved to amend, so as to admit Judges, Officers of State, &c. ; and Mr. SEAWELL added, "all other persons whom the President might designate."

Mr. TOOMER hoped, since the *ladies* had been excluded, that no *man*, however exalted his station, would have the privilege extended to him.

Mr. WILSON, of Perquimons, was opposed to *any* man's being granted special privileges on this floor, when the ladies are denied them. Suppose some distinguished female were to come this way, Mrs. Anne Royal for instance, should we ungallantly deny her, and invite a *man* in ?

Amendment negatived.

One of the Rules reported for the government of this body, provides that the Yeas and Nays shall be taken on the call of one-fifth of the members present.

Mr. WILSON moved to amend this provision, so that the Yeas and Nays should be taken on the call of any individual member ; but after a few remarks from a member of the Committee, stating that the Rule, as reported, was in conformity with the practice of Congress, and most of the other Legislative bodies in the Union ; that it would prevent any individual member from unnecessarily protracting the public business ; and that no instance ever occurred of a refusal to take the Yeas and Nays, when called for on any important subject, the mover withdrew his motion.

Mr. GASTON, of Craven, from the Committee appointed to consider and report the manner in which it will be expedient to take up the business of the Convention, made the following

REPORT.

The Committee who were appointed by the Convention to consider and report the manner in which it will be expedient to take up the business of the Convention, respectfully report :

It appears to your Committee that the business of the Convention will be most conveniently brought before the Convention, by their proceeding to consider and to act upon the following Resolutions, which are therefore reported simply as presenting a plan of operations, and not as indicating an opinion on the merits of any of the Resolutions :

1. *Resolved*, That so much of the Act, entitled "An Act concerning a Convention to amend the Constitution of the State," which Act has been ratified by the People, as directs Amendments to be made to the Constitution of this State, so as to reduce the number of members of the Senate to not less than thirty-four nor more than fifty, to be elected by districts, to be laid off at convenient and prescribed periods by Counties, in proportion to the public taxes paid into the Treasury of the State by the citizens thereof ; also, so much of said Act as directs an amendment to be made to the said Constitution, whereby to reduce the num-

ber of members in the House of Commons to not less than ninety, nor more than one hundred and twenty, exclusive of Borough members, to be apportioned according to Federal population; and, also, so much thereof as relates to the residence and qualification of persons voting for Senators, and persons eligible to the Senate, be referred to a committee of thirteen members, one from each of the Congressional Districts of this State, with instructions to frame and report the Amendments, as by said Act required.

2. *Resolved*, That so much of the said Act as directs a mode to be prescribed for the ratification of such Amendments as may be recommended by the Convention; also, so much thereof as directs necessary Ordinances and Regulations to be prescribed for the purpose of giving operation and effect to the Constitution, as altered and amended; and, also, so much thereof as directs that the Convention shall provide in what manner amendments shall in future be made to the said Constitution, be referred to a Committee of thirteen members, to be selected as in the foregoing Resolution, with instructions to frame and report the necessary provisions for the purpose of carrying the said directions into execution.

3. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments are proper to be made to the Constitution of this State, as to the exclusion, in whole or in part, of Borough members from the House of Commons.

4. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments are proper to be made to the said Constitution, as to the abrogation or restriction of the right of free negroes or mulattoes to vote for members of the Senate or House of Commons.

5. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments are proper to be made to the said Constitution, to disqualify members of the Assembly and Officers of the State, or those who hold places of trust under the authority of this State, from being or continuing such while they hold any other office or appointment under the Government of this State, or the United States, or any other Government.

6. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments should be made to the said Constitution, so as to make the capitation tax on slave and free white polls equal.

7. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments be necessary in the mode of appointing and removing from office, Militia Officers and Justices of the Peace.

8. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments be proper to compel the members of the General Assembly to vote *viva voce*, in election of Officers.

9. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments be proper to be made in the 32d Article of the Constitution.

10. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments be proper to be made in the Constitution for supplying vacancies in the General Assembly, accruing before the meeting of the General Assembly.

11. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments be proper to provide for biennial instead of annual meetings of the General Assembly, and for the biennial instead of tri-annual election of Secretary of State.

12. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments be proper to provide for the election of Governor by the qualified voters for the members of the House of Commons, and prescribing the term for which he may be elected, and the number of terms during which he shall be eligible.

13. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments may be proper, providing that the Attorney-General shall be elected for a term of years.

14. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments should be made providing a tribunal whereby Judges of the Supreme and Superior Courts, and other Officers of the State, may be impeached and tried for corruption and mal-practices in office.

15. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments should be made vacating the office of a Justice of the Peace, and disqualifying him from holding such appointment upon conviction of an infamous crime, or of corruption and mal-practice in office.

16. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments should be made providing for the removal of any of the Judges of the Supreme or Superior Courts for mental or physical inability, upon a concurrent resolution of two-thirds of both branches of the Legislature.

17. *Resolved*, That a Committee be appointed to enquire and report, whether any, and if any, what amendments should be made, providing that the salaries of the Judges shall not be diminished during their continuance in office.

18. *Resolved*, That a Committee be appointed to enquire and report, whether any amendments ought to be made, and if so, what amendments are proper, to provide against unnecessary private legislation.

19. *Resolved*, That a Committee be appointed to enquire and report, whether it be proper to make any amendment, and if so, what amendment, so as to provide that no Judge of the Supreme Court shall be eligible to any office, nor any Judge of the Superior Court to any other office than that of Judge of the Supreme Court, while retaining his judicial appointment.

The Report having been read, Mr. GASTON said, if it were now in order, he would proceed very briefly to explain, what perhaps might not, after the Report has been read, be thought necessary, the view that the Committee took on this subject.

The Committee, he said, considered themselves as charged with no other duties than to report to the Convention, a convenient and regular method of treating the several matters submitted by the Act of last Session to its consideration.

In considering this subject, the Committee made a manifest distinction between what the People, in approving and sanctioning the Act of Assembly, have determined shall be done by the Convention, and what they have left to their discretion.

With respect to the first class of duties, the Committee thought it proper to propose the appointment of two distinct Committees, each consisting of thirteen members, one from each Congressional District, to prepare plans for carrying them into effect.

With regard to the discretionary subjects, the Committee begged to be understood, that they have no other object in view, but to bring the several matters contained in the Act before the Convention in such a form as that the sense of that body may be distinctly taken upon them, without any recommendation for their adoption.

The Committee has framed a Resolution, suggesting the appointment of a Committee upon every amendment of the Constitution mentioned in the Act of Assembly, and leave it to the Convention to determine the propriety of appointing such Committee. If they should determine that it is unnecessary to act upon any subject, they can decline appointing the Committee.

The mode in which the Convention will act upon each Resolution, will be for its wisdom to determine.

The Convention can, at once, declare its unwillingness to act upon any subject; or they may refer the matter to a Committee, and, after consideration and report, reject it as inexpedient.

By moving to strike out any Resolution, by modifying, or by voting against any proposition, there need be no scruples of delicacy, as is frequently the case when considering a Resolution moved by an individual. These Resolutions are reported by a

Committee, as forming a plan of operation for the Convention to act upon, as they may judge proper.

Mr. G. supposed this explanation scarcely necessary ; but the matters on which the Convention are called upon to act, are so momentous in principle, and may be so important in their consequences, that he wished members to satisfy themselves on every question, and to come to a decision only after full and free discussion.

A motion was made that the Report lie on the table and be printed.

Mr. SPEIGHT, of Greene, did not object to printing the Report ; but it would save time if the Convention would take up and refer the two first Resolutions, to which he supposed there could be no objection, and appoint the proposed Committees, as they could then immediately prepare the necessary materials for making Reports to the Convention. He therefore made that motion.

Mr. DANIEL was opposed to the reference of the subjects in question to a Select Committee, at present. He would prefer committing the subject to a Committee of the Whole, in order to settle the question as to the number of members of which each House should consist. When this matter was adjusted, it would be proper to refer the subject to a Select Committee, to prepare the details of a Bill to carry the views of the Convention into effect.

Mr. SMITH, of Orange, thought the proper course was that recommended by the Committee, in the Report just read. The Committee proposed, would consist of a member from each Congressional District, and would, by a full and free examination of the subject, be able to form such a plan for effecting the leading objects of the Convention as would probably meet the approbation of a large majority of the members present. When this Report came before the Convention, either in whole or in part, it would be examined, discussed, and probably amended.

Mr. BRANCH said, that before we entered into details, we should decide on the dimensions of the building ; we must know what sort of a fabrick it is to be, before we can collect materials and go on with the work : this should be done by the Convention, before the subject went to a Select Committee.

Mr. WELLBORN said the length and breadth of the building was decided by the Act of the Legislature ; the frame is presented to us ; it only wants finishing ; the inside work is now to be done.

Mr. DANIEL remarked, that the size of the building was far from being fixed ; we were presented with an outline, it is true ; it was not to be more in length than 120 feet, nor less than 90 ; nor in breadth over 50, nor under 34.

Mr. BRYAN said we had been sent here not to build a new house, but to repair an old one. He wanted the statistics called

for by the gentleman from Rowan, (Mr. Giles.) before he could act understandingly on this important question.

Mr. SWAIN said, a Committee of the Whole would be too numerous to despatch business—there would be too many conflicting opinions. A committee of 13 or 26, could harmonize and agree upon results, much more readily than a body of 130.

Mr. DOCKERY was in favor of a Committee of the Whole, and that the subject be postponed till to-morrow.

Mr. OUTLAW was opposed to a Committee of the Whole; it would consume time; by that course we should have two discussions in place of one—one now, and another after the report of the Committee.

Mr. CARSON, of Rutherford, was in favor of a Select Committee. We should have the lights of their experience and deliberations.

Mr. FISHER spoke in favor of a Special Committee. After which, the motion to take up the Resolutions was agreed to.

The first Resolution being under consideration, Mr. WILSON, of Perquimons, moved to amend it, by striking out "one from each Congressional District," and inserting "two from each Judicial District."

Mr. MOREHEAD said, he believed the Judicial Districts were laid off with regard neither to taxation nor population; and as the Congressional Districts were arranged with reference to the latter principle, and as that was to be made the basis of representation in the lower House, he thought the Committee should be selected in accordance therewith.

Mr. SEAWELL was of opinion, that as this Convention was composed of members elected upon the principle of County representation, the Committee ought to be selected in accordance with the same rule. If thus constituted, it would better represent the views of this body.

Mr. WILSON's amendment was finally rejected. Yeas 51—Nays 75.

Mr. M'QUEEN moved to increase the Committee, from 13 to 26—two instead of one from each Congressional District.

Mr. GAITHER thought the first Resolution reported by the Committee, embraced distinct subjects, and should be referred to separate Committees—two distinct matters ought not to be brought into discussion at the same time.

Mr. M'QUEEN having withdrawn his amendment,

Mr. GAITHER moved to strike out all in the Resolution which related to the lower House.

Mr. SHOBER was in favor of this proposition; he thought two Committees would give us much more satisfactory reports on the subjects contained in the Resolution, than one.

Mr. SPEIGHT, of Greene, was opposed to dividing the matters contained in the Resolution between two Committees. What-

ever number might be fixed upon to compose the Senate, the number of members in the Commons should bear a due proportion to them; and to effect that object, the whole matter should go before one Committee.

Mr. TOOMER concurred in this view of the subject. As the two Houses would frequently be called to go into joint ballot, their relative numbers should be properly balanced; and this could much more conveniently be brought about by one than two Committees.

The amendment was lost; and on motion of Mr. SHOBER, the Committee was ordered to be composed of 26, two from each Congressional District. The following gentlemen were appointed by the President to compose said Committee. viz :

Messrs. Bailey, Wilson, of Perquimons, Daniel, Outlaw, Halsey, Collins, Spaight, of Craven, Speight, of Greene, Holmes, Owen, Crudup, Williams, of Franklin, Toomer, Kelly, Smith, of Orange, Jones, of Wake, Morehead, Brodnax, Fisher, Gray, Barringer, Hutchison, Swain, Carson, of Rutherford, King and Bower.

Mr. SMITH, of Orange, remarked, that the Convention having now arrived at a convenient point, he moved that it adjourn; but withdrew his motion, at the request of Mr. Morehead, who submitted the following Resolution :

Resolved, That the Convention meet every day at 10 o'clock, unless otherwise ordered.

The question thereon was decided in the affirmative, without debate.

Mr. SMITH having renewed his motion, the House adjourned.

TUESDAY, JUNE 9, 1835.

After Prayer by the Rev. Mr. Jamieson, of the Methodist Church,

Mr. JACOBS moved that the Resolution laid on the table, a day or two since, in relation to procuring certain Statistical information, be taken up for consideration; which was agreed to.—The Resolution having been read, Mr. J. said, that the object of it was in a great measure superseded, by the adoption of one of similar import, offered by Mr. Giles. There was, however, a single point embraced in his Resolution, on which he still desired information, for the purpose of obtaining which, he would modify it, by striking out the whole after the word “Resolved,” and inserting, “That the said Committee report the number of votes taken in each County in the State upon the Convention Question, on the first and second days of April last.”

The PRESIDENT having stated the question,

Mr. WELLBORN remarked, that if he could perceive any beneficial result which could flow from the proposed enquiry, he would

cheerfully vote for it. He would like to hear the gentleman's reasons for desiring the information.

Mr. JACOBS replied, that he wanted the information for his constituents. He did not know that it would aid the Convention in arriving at any particular conclusion, but it would be satisfactory to the public.

Mr. WILSON, of Perquimons, rose to move an amendment. It was certainly very desirable, before our old Constitution was upturned, and its structure utterly demolished, that every fact having a bearing on the subject should be made public. The people have a right to this information; they ought to know their real strength, and what portion of them it is who desire so great a change in our fundamental law. If this information goes forth under the sanction of this Convention, it will be received by the people as having the stamp of authority upon it. He therefore moved to amend the Resolution by adding as follows:

"And that the said Committee also enquire and report the number of free *white* voters in each County."

If he remembered correctly, the Census of 1830 showed the number of *white* males, entitled to vote, to be between 80 and 85,000, while the recent vote on the Convention Question exhibited only 27,000 votes in favor of the measure; and no doubt the voters had greatly increased in the time intervening between the last Census and the late vote, judging by the rate of increase since 1790, which he estimated at 30 per cent. up to 1830, and 15 per cent. since. It is important that the people should know these and similar facts, so that they may act understandingly when the Constitution is presented to them for ratification. He hoped the amendment would prevail.

Mr. WELLBORN said, it was true, the late vote was a comparatively thin one; but did not experience show that the people would not turn out to vote, unless under the influence of some strong motive. The majority obtained was a Constitutional one, that was sufficient. As respects informing the people, they already know all that it was proposed to communicate to them by the desired publication.

Mr. GILES, being one of the Committee to whom the subject was proposed to be referred, was opposed to the adoption of the amendment, simply on the ground of the impracticability of obtaining the information called for. Perfectly willing to undergo any labor which might devolve upon the Committee, he was convinced there was no source whence it would be possible to obtain the number of free white voters in each county in the State.

Mr. COOPER hoped the amendment would prevail. It was a sufficient reason for its adoption, that the people wanted light on the subject embraced in it.

Mr. GASTON, of Craven, begged leave to make one remark on the proposed amendment. He was sorry to see the amendment resisted, because gentlemen could not discover the benefit

which might result from it. He thought it a sufficient reason for its adoption, that respectable gentlemen stated the information was wanted to throw light on grave questions of deep interest. Without a spirit of courtesy and harmony, it would be impossible to transact the business which they were delegated to perform; and from experience, he was convinced that nothing would have so great a tendency to destroy that harmony as an attempt to withhold information which, it is alledged, is necessary to enable gentlemen to arrive at correct conclusions. He was not certain that the information sought for would, when obtained, throw any great light on the questions at issue; but he was not certain that it would not. We could not, however, have too much information when engaged in changing the fundamental institutions of the country.

It was with the most perfect sincerity that he had voted for calling this Convention. He had been influenced by an ardent desire to quiet the heart-burnings which the question had engendered; but though he voted from a deliberate conviction of expediency, he confessed he had done so with fear and trembling.

They were engaged in no ordinary act of legislation. What they should do, would be for the good or evil of North-Carolina. God knows for how many generations. Let then gentlemen, if they want information, have it—there cannot be too much.

He agreed with the gentleman from Wilkes, (Mr. Wellborn,) that it was not necessary a majority of the qualified voters should have actually voted for calling a Convention. It is sufficient that there was a Constitutional majority—a majority of those who did vote.

MR. GAITHER rose to move an amendment, viz: "That the Committee report a Tabular Statement, showing the vote of the people on the Convention Question, at the election in 1833."—The vote taken in April last, he contended, was not a fair test, inasmuch as it was not the usual time of holding elections, and the people did not turn out. But in August, when they had been accustomed to repair to the polls, the vote was some indication of the strength of the friends of Convention.

MR. JACOBS hoped the amendment would prevail, though he did not believe a poll was opened in his county (Perquimons) on the question.

MR. KING had no objection either to the original Resolution or the amendment, but he thought there was a marked difference between the vote of 1833 and 1835. The first was taken without the sanction of the Legislature, and the question was, Will you alter the Constitution or not? In 1835, the people went to the polls with a perfect understanding of the question. It was directly propounded—Are you *for* or *against* a Convention? One reason why the people did not more generally turn out at the last election, was, the certainty of success, as indicated by the vote of 1833. Another was, the busy season had just commenced

among the farmers, and they were too much engaged to leave their homes.

Mr. WILSON, of Perquimons, said, that in April last, the people were called out for a specific object, which was laid down in the Act of Assembly, to be found in almost every voter's house. Why, then, was there not a general turn out? "*I have bought a yoke of oxen, and cannot come. I have married a wife, and therefore cannot come,*" &c. These excuses were all considered evasions in Scripture; and so, he presumed, were the reasons given why the voters did not turn out. He would tell the gentleman from Iredell, why they did not go—they were dissatisfied with the Act, and did not feel interest enough to vote. He thanked the gentleman from Burke (Mr. Gaither) for his amendment. He feared no investigation, and wanted all the light that could be thrown on the subject.

Mr. SWAIN had no objection to all the information being procured which gentlemen might desire; but, as it was avowed that the object of that information is not to lessen the labors of this body, but to enlighten the people, he hoped to see the original proposition disencumbered of the several amendments. That was in the Printer's hands, and would soon be before us. He moved, therefore, to modify the Resolution, so as to provide for the appointment of a *select* Committee, to prepare the Tables desired, instead of imposing the labor on the original Committee. He moved this modification to meet the views of the gentlemen from Perquimons and Burke, (Wilson and Gaither,) though he believed it impracticable to obtain the information asked for; and if obtained, that it would be totally irrelevant to any matter at issue. There never had been any regular returns of the vote at the August election of 1833, the Statement published having been informally furnished by Members of Assembly. It would be impossible to ascertain the number of *white* voters, for the simple reason that one half of the Clerks did not, in their Returns to the Comptroller's Office, distinguish between the black and white polls; and if they did, voters over 45 were not subject to taxation, and therefore not included.

Gentlemen had spoken of the thin vote in April last. They might be astonished to learn that, with a single exception, it was the largest general vote ever given in the State on any occasion. The exception was the Presidential vote of 1828. The vote of 1824 for President was much smaller than the Convention vote. In 1824, the aggregate vote for Electors of President and Vice-President, was 36,036; in 1828 it was 51,776; and the number of votes polled for and against the Convention, in April last, was 49,244. He spoke of the estimate which had been made of the increase of population (by Mr. Wilson) as erroneous, and expressed the opinion that so far from our population having increased 15 per cent. between the years 1830 and 1835, it had not equalled 3 per cent.; indeed he was not sure that it had not

diminished, instead of increased. He repeated, he had no objection to the proposed enquiry, but for the reasons stated, pressed his modification.

Mr. JACOCKS said he would accept the gentleman's modification, his only object being to spread information before the public which he deemed essential.

The several amendments were then agreed to, and the Resolution adopted.

The CHAIR appointed as the Committee, Messrs. Jacocks, Jones, of Wake, and Gaither.

Mr. SMITH, of Orange, moved to consider the second Resolution reported by the General Committee, being the unfinished business of yesterday. Agreed to.

Mr. WELLBORN moved to amend it, so as to make the number of members composing the Committee, to correspond with the Committee under the first Resolution.

Mr. SPEIGHT, of Greene, objected. It would make the Committee too large. Large bodies move slowly, and large Committees could not despatch business with the facility of smaller ones. He therefore suggested to the mover the propriety of withdrawing his Resolution.

Mr. WELLBORN accordingly withdrew it.

Mr. WILSON, of Perquimons, moved to strike out "one from each Congressional District," and insert "one from each Judicial District." He said this arrangement would embody more fully the spirit which prompted the Legislature to call this Convention.

Mr. WELLBORN opposed the amendment. It was absurd to contend that the principle of selecting the Committees from the Judicial Districts was correct.

Mr. M'QUEEN called for a division of the question.

Mr. GASTON, of Craven, said, that next in importance to the great work of amending the Constitution, was the duty imposed by the second Resolution. Personally, it was matter of little consequence to him how the Committee should be constituted; whether the members should be taken from the Congressional or the Judicial Districts; but it ought not certainly to be so small as proposed; it should be sufficiently large to represent the views and interests of the various sections of the State.

Mr. WILSON, of Perquimons, said, he appreciated the force of the remarks made by the gentleman from Craven, and therefore modified his amendment so as to provide for the appointment of two members from each Judicial District, instead of one.

The question being loudly called for, and the President having stated it to be first on striking out,

Mr. JACOCKS demanded the Yeas and Nays, which stood as follows: Ayes 61, Noes 64.

So the motion was lost.

Mr. GASTON moved a verbal amendment, to make it correspond with the first Resolution; and, as amended, the Resolution was passed.

The following members were chosen to constitute the Committee, viz : Messrs. Skinner, Branch, Wilson, of Edgecomb, Bryan, Meares, Gilliam, Toomer, Montgomery, Shober, Giles, Shipp, Birchett and Dobson.

Mr. SMITH, of Orange, said, he presumed the next Resolution would be considered in Committee of the Whole; but, to afford gentlemen time for reflection, and a comparison of views, he moved to adjourn; but withdrew the motion, at the suggestion of Mr. GASTON, that no motion had yet been made to submit the remaining Resolutions to a Committee. A motion to this effect, having been made with regard to each, and carried,

Mr. SMITH renewed his motion, and the Convention then adjourned.

WEDNESDAY, JUNE 10, 1855.

After Prayer by the Rev. Dr. M'Pheeters,

Mr. Council Wooten, a Delegate from Lenoir, appeared, was qualified, and took his seat.

The Resolutions, yesterday referred to a Committee of the Whole, coming up for consideration, on motion, the Convention resolved itself into a Committee of the Whole, and the President called Mr. SWAIN to the Chair.

Mr. SMITH, of Orange, moved that the Committee take up the 11th Resolution, which has relation to the meeting of the General Assembly, whether it shall be annual or biennial. He thought it best to take up this Resolution in preference to the 3d, in relation to Borough members, which was first in order.

Several members objecting to this course, and desiring the Resolutions to be taken up regularly, the question was taken for first considering the 11th, and negatived.

The third Resolution, which directs an enquiry whether any and what amendments are proper to be made as to the exclusion, in whole or in part, of Borough members from the House of Commons, was taken up for consideration.

Mr. SMITH, of Orange, moved to strike out the whole of the Resolution, after the word "Resolved," and insert "It is expedient to abolish Borough representation entirely."

The question being called for on this amendment,

Mr. GASTON, of Craven, rose and said, that he trusted that this proposition would not be decided without discussion. While it is our duty, sir, said he, to the extent of our power to remove whatever blemishes we may discover in the Constitution, we should proceed with great caution, lest we introduce evils which

we know not of; and it is prudent, when making a change in the political institutions of the country, to depart no further from existing usages than necessity requires. There are always inconveniences resulting from such changes, and often such as were not foreseen.

Our forefathers must have had some reason which induced them to give to a few of the incorporated towns in the State a distinct right of representation. Perhaps a little consideration may enable us to discover the most obvious of these reasons.—The great purpose of all Governments is to promote the happiness and insure the safety of its citizens. Power must be conferred which is adequate to these purposes, but care should be taken to place it in the hands of those who are not likely to abuse it to the purposes of wrong and oppression. Where there are portions of the community, who, in addition to the interest they feel in their country's good, have certain interests of their own; whose occupations and pursuits, and property, are of a kind distinct from those of their fellow-citizens generally, and these portions are relatively weak in comparison with the rest of the State; there is always great danger, lest their rights should be overlooked or invaded. It is essential that there should be secured to them some friend who will see that their grievances shall be made known and their wants communicated, where relief may be had, and that they shall not be made to bear more than their fair share of the public burthens. Many of the subjects of taxation are to be principally found in incorporated towns. Taxation, without representation, always must lead to oppression. However disposed the Legislature might be to do exact justice in the apportionment of taxes, unless the interests of these towns were distinctly represented, they might be in the situation of a Judge who heard but one side of a cause. The representatives from a few towns, in protecting the interests of their immediate constituents, became thus, to a certain extent, guardians of the interests of all the towns in the State. They were so few that their votes could have but little influence on the decision, but they secured for these interests a fair hearing.

Another reason, no doubt, had its weight with the framers of our Constitution. Agriculture is the great interest of this State. It is decidedly an Agricultural State; but it is not exclusively so. Every enlightened man knows that Commerce is the best friend of Agriculture; yet, every man of experience knows that feuds will sometimes occur between the best friends. There will be occasional jealousies and rivalries; and these, unless restrained, will burst out into acts of enmity. There is eminent need, on these occasions, that the few and the weak should find a protector in the Legislative Hall. The strong *may* protect themselves, but the weak must invoke the protection of authority. And even when there are no misunderstandings, and no conflicting inter-

ests, representatives are generally wanted, who, from their pursuits and associations, are familiarly cognisant with those subjects to which the great body of the Legislature must necessarily be strangers. How can we expect commercial concerns to be made *intelligible* to a body of country gentlemen, so as to procure a wholesome legislation upon them, except through the representatives of towns? For correct information in every art, recourse is had to those who profess it. You go to the builder for estimates before you erect your house—you consult the physician when your health is attacked—and ask advice of the lawyer when your property is contested. On questions which you have never had occasion to consider, totally foreign from your habits, you are called upon to legislate. Surely it is wise that there be some associated with you on whom you may rely for correct information.

Our forefathers had probably discovered, from experience under our Colonial state, that the representatives of Boroughs (as they are called) were usually distinguished for intelligence, firmness and independence, and might have been unwilling to deprive the Legislative Councils of the aid of such men. It cannot be doubted but that the collision of minds strengthens the mental faculties. When men are brought into close connection, and interchange habitually their opinions on the various subjects which engage their attention as social beings, there will be this collision. He who represents constituents, to every one of whom he is intimately known, and with whom he every day associates, feels that his legislative acts are not subjected to that misrepresentation, nor his motives to that misconstruction, which might with greater success be attempted against one less favorably situated. If such attempts be made, they must be made openly, and can be instantly met. He is not under the necessity of traveling first to one, and then to another corner of a county, to explain and vindicate his conduct. Without claiming for him an extraordinary portion of virtue, he can venture with more confidence to follow out, and sustain with manliness, his own convictions of right. If the framers of our Constitution thus believed, our experience under the Constitution has proved that this belief was well founded. It is not always that the towns which have the right of representation in our General Assembly, have sent their ablest and their best men; but all will admit that generally the town members have been among the most intelligent, liberal and independent members of that body.

Are not these, and reasons like these, sufficient to warn us against a hasty determination to abolish altogether Borough representation? There may be some of the seven towns, to whom the right has been given, that are now too inconsiderable to be permitted to retain it. If such be the case, let us reform as to them; but, under the idea of reforming, let us beware of rash innovation.

It may be, added Mr. G., that I am under a bias, from the circumstance of my residing, and having always resided, in one of the towns to which decapitation is threatened. However this may be, it cannot detract from the force of the reasons which I have suggested, if, upon consideration, it appears to the Committee that they indeed have force. From the citizens of that town I have received no communications on the subject; but I cannot doubt their opinions. With a full knowledge that one of the questions which was to be referred to this Convention, was the propriety of disfranchising them of a right which must be dear to them from long enjoyment and experience of its utility, with a voice almost unanimous they gave their suffrages for a Convention. They resolved to peril this right in an *attempt* to reconcile discordant sectional interests, and to remove those heart-burnings which mistrust and prejudice had spread through our land.

In this hope he had concurred with them. He earnestly trusted that the attempt might be successful, but it could not be, unless a spirit of harmony was encouraged here. This spirit certainly required, that, in what was called the struggle for power, a minute and calculating jealousy should be suppressed. A member more, or a member less, on one or the other side of the State, was, in itself, a matter of very little moment. As, indeed, a struggle for power, he viewed the subject in Convention, as greatly exaggerated by the fears of the one and the aspirations of the other section of the community. Of his friends from the East, who had heretofore possessed it, he would ask, what mighty benefits have we gained from it? And to his brethren of the West, he would say, and he hoped that they would not regard an old man as presumptuous in venturing the prediction, should they succeed in gaining the glittering prize, they will essentially find its intrinsic value far below the estimate which they now put upon it. In the formation of a Government, the citizens can meet upon no other ground than that of precise equality of power; but, in the arrangements of a Government, it is impossible to pursue a scheme of mathematical equality. Care should be taken that the deliberate will of the great body of the community should predominate; but care must also be had that the voice of *all* and every portion of it should be heard.

Mr. SMITH, of Orange, said, as he had submitted the amendment to the Resolution under consideration, it would be expected that he should offer some reasons in its support. He had long considered the subject of Borough Representation, and had come to the conclusion that it ought to be abolished. He had resided in one of these Boroughs for nearly forty years, and he was well acquainted with the evils arising from their annual elections. The practice of giving members to Borough Towns was derived from England, where it was introduced for the en-

couragement of trade. Such establishments might have answered the purpose of the British Monarchical Government, but they are not suited to our Republican system. Before the existence of the General Government, Town Representatives might have been useful for the encouragement of Commerce; but by the Constitution of the United States all matters of Commerce are transferred to the Federal Government, so that there is no longer any necessity for Borough Representation on this ground. He knew of nothing but the Inspection laws that was necessary to be attended to by our Legislature in behalf of these Borough towns. It is true, that men of talents are frequently sent to the Legislature to represent these towns; but if the towns were deprived of the privilege of sending members, the same men would probably be elected from the counties in which the towns are situated. Besides, professional men and country merchants are frequently sent to the Legislature by the counties, and commercial men could whenever they pleased, present any object to the General Assembly by way of memorial, which would doubtless be attended to.

Has the moral condition of the Borough towns, asked Mr. S. improved by the privilege which they possess of sending members to the Legislature? On the contrary, the annual elections, it is notorious, in most of the towns, are productive of feuds, quarrels and bloodshed! Mechanics and others are excited by the parties interested in such elections, business is neglected, and the morals of the people are corrupted. These excesses may not be so prevalent in the large towns as in the smaller, though, he presumed, they existed to some extent in all. And he could see no reason why a few men resident in a town should possess as much political power as the largest county in the State. At a time when we are about to correct irregularities in our Constitution, this inequality ought not to be overlooked. He hoped, therefore, his motion would be agreed to.

Mr. WELLBORN doubted the propriety of abolishing Borough Representation altogether, knowing from experience, that the most talented members of the Legislature are generally sent by these towns. It is true, that these men might be elected to represent the counties in which the towns are situated, were the town elections abolished, though he was aware of the existence of a prejudice in the country against taking members from towns. He thought the sea-ports, where the commerce of the country is principally carried on, and whose interests are distinct from those of the country at large, ought to send Representatives who understand, and who would be able to defend them. He should like to hear the subject further discussed.

Mr. DANIEL said, it is true, that some of the Borough towns are small, but they contain men of talents, and send able Representatives to the Legislature; and, as had been remarked

by the gentleman from Craven, political power cannot be equally divided. Some portions of country are more advanced in knowledge and civilization than others, so that a state of equality cannot be prescribed. Mr. D. gave an historical account of the origin of Borough Representation, and of the House of Commons in England, which he said, arose from the great aid which the trading and wealthy portion of the community had it in their power to afford to the King, in carrying on War, &c. Mr. D. denied the position of the gentleman from Orange, that because Congress had the power to regulate commerce, there was now no necessity for Borough members to take care of commercial interests in our Legislature. The commerce which Congress regulated was the commerce of the United States with Foreign Countries, whereas the trading interests which the Borough members were expected to attend to, were those of our own State—and especially to see that this portion of our citizens were not overburdened with more than their due portion of taxes. He was aware that the election of these members were at times productive of a good deal of excitement and bad feeling; but this was an evil, like some others, which attend the enjoyment of the privileges of a Free Government. He hoped the motion would be disagreed to.

Mr. DOCKERY moved to except the towns of Newbern, Wilmington and Fayetteville, from the motion of the gentleman from Orange.

Mr. HALSEY moved to strike out Fayetteville, and add Edenton to the amendment proposed.

The PRESIDENT declared the motion out of order.

Mr. GASTON, of Craven, observed, that the amendment to the amendment, brought before the Committee the question of partial, in preference to total abolition of Borough Representation. It was difficult to discuss this precise question, without advertng to the principle involved in the original amendment. He hoped, therefore, that he would be excused for adding a few words in relation to the general question, which would bear also upon the immediate proposition.

He thought the gentleman from Orange inaccurate in tracing the origin of representation in the English House of Commons. The granting to Boroughs of corporate powers for the regulation of their internal concerns, arose from the desire to encourage and foster their pursuits, their mercantile trading and mechanical operations. But the incorporation of Boroughs was not to be confounded with their sending of Representatives to Parliament. The latter had its origin in another principle, which might with truth be called the very foundation of English Freedom. The necessities of the King required subsidies or grants, and these could be obtained only by the assent of the great body of his subjects. They were levied upon real and upon personal

property. The shires, and the principal boroughs—that is to say, the landed and the trading interests—the former through their knights, and the latter by their delegates, were summoned for the purpose of declaring the amount of subsidy which they were willing to grant, and the rule of assessment upon lands and personal property. It was this principle of voluntary grants—of representation for the purpose of taxation, which brought the Burgesses into the House of Commons. Taxation and representation were regarded as inseparable—once brought into the legislative body, and having the power to refuse grants until their grievances were redressed, they gradually became able to vindicate their rights—they increased in wealth—their ability to contribute increased. Their reasonable claims could no longer be resisted, and political power was the necessary result. This same principle—no taxation without representation—which was the foundation of political liberty in England, was the foundation of political liberty also on this side of the Atlantic, and is entitled to our peculiar reverence. What becomes of it, if you abolish Borough representation? The tax-payers of the towns are to have no voice in the Senate—and if you deny them members in the House of Commons, which will be the *practical* result of merging them in the counties—they will have no voice any where.

It is the subject of almost universal regret, that we have not great commercial towns, and that the products of our soil principally find their markets in other States. At this moment, when we so ardently desire to build up commercial cities within our borders, what will be thought of the plan to disfranchise all the towns in the State? Surely the intelligence will not sound pleasantly in the ears of their inhabitants. Surely such a plan does not exhibit very cheering evidence of a determination to encourage commerce, or to give security and activity to mercantile enterprise, or to whatever may improve and advance the State.

Moral evils, arising from contested town elections, are alleged as a reason for demanding this disfranchisement. Sir, said Mr. G., in the town where I drew my first, and hope to draw my last breath, and which is situate in the county that I have the honor in part to represent, such contests have indeed occurred, and have been conducted with an acrimony which all party contests never fail to engender. Our citizens have occasionally been visited by that political phrenzy from which no community is ever wholly exempt; but if contests among them have been severe, it is to be recollected they are unfrequent. The public attention is generally directed to some individual, who, without opposition or canvas, is called to represent them. In the small towns, it may be otherwise; and if these are no longer fit to be trusted with the right of separate representation, take it from them. But because these are to be excluded, do not disfranchise all.

It is in vain to deny that commercial communities have peculiar interests of their own. These they must endeavor to protect and advance through some agent or other. If we deny them a Constitutional agent, they will be driven to get agents of another kind. If they are to have no member in the Hall of Legislation, they may be compelled to send you "lobby members." Heard in the Legislature, they can do no harm. So few in number, their voice can be effectual only when it is the voice of truth and justice. But when members of the Assembly shall be approached through the other agents, means of persuasion may be used of a different character. The intelligent may indeed be addressed by reason, and the just by fair statements—but the uninformed may be misled by falsehood, and those whose consciences are in their pockets, may be convinced by arguments directed to the seat of their sensibility.

Mr. KELLY saw no propriety in continuing Borough representation, which he thought would be inconsistent with the principle proposed to be established, by fixing our representation in the General Assembly on federal numbers and taxation combined. For though the Commerce of the State may be principally carried on in the towns of Newbern, Wilmington and Fayetteville, that is no reason why they should each send a member, as they would be represented on the same common ground with all the other inhabitants of the State. He had listened with attention to the arguments which had been urged in favor of the motion before the Committee, but had not been convinced by them. He had no doubt that the representatives from the counties in which the several boroughs are situated, would attend sufficiently to their interest, if one of them were not generally the very man whom the town would have elected had they possessed the privilege of doing so.

On motion, the Committee rose, reported progress, and asked leave to sit again; which being granted, the Convention then adjourned till to-morrow morning, 9 o'clock.

THURSDAY, JUNE 11, 1835.

After Prayer by the Rev. Dr. M'Pheeters, the PRESIDENT took the Chair, and the Convention having resolved to consider the unfinished business of yesterday,

Mr. SWAIN hoped the President would call some other gentleman to preside in Committee of the Whole, as he felt somewhat indisposed, and wished to be excused from this service.

The Convention then resolved itself into a Committee of the Whole on the 3d Resolution, in relation to Borough Members, Mr. DANIEL in the Chair.

The question being stated,

Mr. SMITH, of Orange, rose and said, he had yesterday listened with attention to the remarks of the gentlemen from Craven and Halifax, in opposition to his motion for abolishing the Borough Members; but he had heard nothing from them which had made any change in his opinion. He still thought, if the Convention adopted the basis of representation, as proposed, it ought not to be departed from in any instance. He would have preferred that this question respecting Borough Members should lie over for the present, as he did not see some of the Representatives in their seats, who took most interest in the decision. He saw no necessity for pressing the question; he therefore moved that the Committee rise, and ask leave to sit again.

Mr. EDWARDS objected to the Committee's rising, and the question being taken, it was negatived.

Mr. SWAIN said, since he heard the remarks of the gentleman from Orange, (Mr. Smith,) he was himself disposed to reject both the amendments before the Committee, and permit the original Resolution to go to a select Committee, in order, if practicable, that some plan might be devised to secure representation to the large towns now in existence, and those which might spring up in any section of the State. This might perhaps be done without producing great inequality, by withdrawing from the estimate, in the apportionment of representation to the counties, the population and revenue of these boroughs. He desired to see this result produced, if within the legitimate range of our powers; but, even if it could not be done, he thought that the large towns should not, in any event, be deprived of their representation.

Mr. S. said, that whatever motives might have influenced others in voting for the call of this Convention, the abstract consideration, as to the particular section of the State whence the larger portion of the members of the Assembly come, had little weight with him. He trusted he occupied higher ground. If the history of our legislation, at the close of another half century, shall nearly resemble that of the past, he must be permitted to say, with perfect respect for the motives of those who differ with him, it is entirely immaterial what may be the basis of representation. He felt the full force of the remarks of the gentleman from Craven, yesterday, with regard to the responsibility which the transfer of political power would impose upon those with whom he (Mr. S.) acted. No reference to proofs is necessary to show, that sectional differences had hitherto, like counterbalancing weights in mechanics, prevented all legislative action for the general improvement of the country.

He repeated, that the basis of representation which he desired to see established, was that, and that only, which would secure the largest share of intelligence and liberality to the Legislative

Councils of the State. If we act upon this principle, and recur to the catalogue of the illustrious dead, and the illustrious living, that have, throughout the whole period of our political existence, constituted the Borough representation, we will find little reason to disfranchise them. If we pass from the representative to the constituent, the same conviction will be forced upon us. The united vote of the Borough members, was the *fiat* which called this Convention into existence, and their constituents were the only aggregate portions of Eastern communities, that sanctioned the measure. And are such representatives, and such constituents, the first victims for sacrifice? Are they to be immolated upon the altar of their own patriotism? Let us examine, for a moment, the effects of the system we are about to introduce.—Take Wilmington as an example for illustration. Her population is equal to more than a third of the aggregate numbers in New-Hanover, she pays more than half the revenue which will entitle that county to a Senator, and we are about to deprive her intelligent and patriotic citizens of the privilege of being either heard or felt in our Legislative Halls. It is useless to tell me, that, paying more than half the tax, she will have her full weight in the Senate. Of the four hundred *freeholders* in that county, not more than fifty are to be found among the *tax-payers* of Wilmington. Wherever the interests of the town and county come in collision, it requires little forecast to perceive, that the interests of the town will not only be unrepresented, but misrepresented. No, sir, neither Wilmington, Newbern, Fayetteville nor Edenton, will find their interest protected in either branch of the Assembly.

He had desired to see county representation abolished, and the number of members reduced, not simply to change the location of power, or because the legislative body was greatly too numerous, but under the hope that the alteration of county lines, would destroy the imaginary boundary which separated the interest of the East and the West, and that by enlarging the range for selection, in the creation of districts, greater intelligence and liberality would characterise our legislation. If disappointed in this hope, no one would regret more than himself the transfer of a barren sceptre.

In conclusion, he remarked, that they had assembled here to redress public grievances. Had he any western friend who would say that *his* constituents ever have complained of the acts of the Borough representatives? They were sent here to correct what was evil, not to destroy that which was good; to act upon enlarged principles of liberality, not to make war upon the weak and helpless.

Dismiss from consideration the principle of county representation, does any one believe that five thousand votes would have been given for the call of this Convention? No, sir, not one

thousand. This was the great object; and if they did not command us to strip the bigot of his cowl, and strike the torch from the hand of persecution, they did not at least expect us to extinguish the lights which, during half a century, have given the greatest lustre to our public councils.

Mr. BRANCH did not consider the present question so important as it had been represented by the gentleman who had just taken his seat, and others. He thought one of the most important objects to be accomplished, was to settle the question of representation of the two Houses. In respect to the sectional interests complained of under the present system, he believed the evil was not owing to any defect in the original formation of the Government, but had arisen by degrees to be an odious feature in it.—We have come here (said Mr. B.) to lay a new foundation for the Government, on federal numbers and taxation, and he hoped we should lose no time in effecting it. He was in favor of the motion for abolishing Borough representation, as inconsistent with the basis proposed.

Mr. SEAWELL said, he did not intend to have made a remark on this subject. His mind had been in doubt as to which side of the question he should take; and when a motion was yesterday made for the Committee to rise, he was glad to hear it, as he wanted time for further consideration on the subject. He had attentively listened to the remarks already made. He was sorry he could not hear the remarks of the gentleman from Halifax, Mr. Daniel. He spoke in a low tone of voice, and was at some distance from him. He should have to vote on the subject, and he wished to offer the reasons which would influence his vote.—He was prevented from voting in April on the question, “Convention,” or “No Convention,” from scruples as to his right to do so. Had he voted, it would have been in the negative, from the conviction that the period was an inauspicious one for holding a Convention; but a majority of those who voted on the subject, having decided in favor of a Convention, and as our Government can get along in no other way, than by the voice of a majority, he was in favor of acting on the subject agreeably to the directions of the Act of Assembly.

Mr. S. said, no gentleman, who had spoken on the subject, had met his views so nearly as the gentleman from Halifax, (Mr. Daniel,) so far as he heard him. Mr. S. said, he was neither an Eastern man nor a Western man, and he wished to God that every man in that Convention could make a like declaration.—He did not know whether the proposed amendments to the Constitution would benefit the East or the West. He should act from principle, and he wished always to do so.

Nothing has yet been determined in relation to forming the Senate and House of Commons. The proposition at present before the Committee, had relation to Borough members. It is

said they are necessary in the General Assembly to look after Commerce. This was doubtless right, when the Constitution of this State was first formed; but after the Congress of the United States determined to take commercial matters into its own hands, there was nothing left for this State to do in relation to Commerce, except to pass Inspection laws.

One strong argument in favor of the abrogation of Boroughs, was, that the Representatives of the counties containing these towns, were themselves of the opinion that it should be done.—They were acquainted with the inconveniences produced by this system—they have witnessed the hostility existing between town and country, and the uncomfortable feeling produced by this state of things. It is said, however, if we abolish Borough representation, our men of talents, who reside in towns, will be excluded from the Halls of Legislation as effectually as if they were inhibited from appearing there. If he thought this would be the effect, it would go a great way with him to vote for retaining the system. But, when the towns become component parts of the counties—when these distinct interests cease to exist—then these foolish jealousies will vanish, and the strongest men will be chosen, as being best qualified to serve the public. We will not lose these living lights who surround us, who have emanated in splendor from the ashes of those whose memory he revered as much as any individual in this house. He should vote for the amendment offered by the gentleman from Orange, and against that submitted by the gentleman from Richmond.

Mr. MACON said, he would go hand in hand with the gentleman from Buncombe as regarded Education, but he differed with him in his notions about Internal Improvement. He doubted the capacity of North Carolina to become a great Commercial State. She had no good port, and the lower part of it was too sickly. For the same reasons New-Orleans never could rival New-York. But, we could diffuse the blessings of Education, and become a virtuous, if not a great people. He expressed a wish that the University of the State was located at Raleigh, for he did not believe in that kind of education which was obtained in cloisters. The *manners* of boys should be attended to as well as their minds. He referred to the City of Williamsburg, in Virginia, which was said to have been the most polished in America, and whose College had turned out more celebrated men than any other Institution within his knowledge.

He was opposed, he said, to the amendment. If the people had not virtue enough to select their most talented men, this provision would not ensure it. Before the Revolution, our Legislative Halls were graced with distinguished men, as well from counties as towns. He instanced Governor Caswell, from the small county of Lenoir, who, he said, was certainly one of the most powerful men that ever lived in this or any other country.

Mr. DOCKERY said, that agreeable to the Rules for the government of deliberative bodies, he had a right to modify his amendment now under discussion. The motion of the gentleman from Orange, (Mr. Smith,) had for its object to demolish Borough representation altogether. His amendment excepted the towns of Newbern, Wilmington and Fayetteville. He now moved a modification of that motion, so as to exclude, in computing the federal population of a county, containing a borough entitled to representation, the citizens of such borough.

Mr. CRUDUP remarked, that he came here determined to vote on general principles, and, influenced by that determination, had intended to vote to abrogate Borough representation altogether; but he confessed, the discussion which had taken place had so greatly shaken that determination, that he now felt disposed, if possible, to admit them, at least in part, to the right. He moved, that the Committee rise, and report the Resolution and amendments to the Convention, and that a select Committee be raised on the subject.

Mr. WILLIAMS, of Pitt, insisted upon some test question being presented to the Committee. No doubt gentlemen had made up their minds, and were ready to act definitively. Why procrastinate matters? If there was, as he believed, a decided majority in favor of abolishing the Borough system, let it be made to appear. If there was not, then it could be referred to a Committee.

Mr. SMITH, of Orange, saw no advantage to accrue from a reference to a sub-committee, after the elaborate discussion which the question had undergone. He thought the better course would be to keep the Resolution before the Committee until gentlemen, representing the sections of country where these boroughs were situated, had fully expressed their views, and some decision was had. If his amendment were rejected, some less exceptionable proposition might then, perhaps, be offered. Nothing was to be gained by hurrying matters. He should prefer the Committee to report progress, and ask leave to sit again, and in the mean time, for the Convention to take up some other point for consideration. It was an erroneous idea, that the business should be taken up in legislative order, and that a deviation from this course would produce confusion. In the Convention which adopted the Constitution of the United States, this legislative order was not observed.

Mr. FISHER thought with the gentleman last up, that nothing was to be gained by pressing matters. The mere work of determining upon amendments, was the smallest part of the business; but deliberation was necessary to enable them to say what was best to be done. When that was ascertained, the method of doing it would easily present itself. For himself, he thought the subject had not been discussed sufficiently. He had heard many things which,

if not altogether new to him, had yet been presented in so imposing a point of view as to make a strong impression on his mind.

Mr. F. said, his situation was a peculiar one. The county from which he came (Rowan) contained one of these boroughs. He lived in a town entitled, under the present Constitution, to send a member, and he had frequently had the honor to represent it in the Councils of the State. For these reasons, he felt bound briefly to state the principles which would influence his vote on the proposition now under discussion.

He would not go back to the origin of Borough representation; for this, there was no necessity. All admitted that it was a scion of the English system, engrafted into our Constitution. The material question for us to consider is—Shall we abandon it wholly, or in part? If in part, then what part? No matter how it originated: whether it had its birth in the bold strife for liberty, or sprung from a spirit of traffic—we find it here. He would say to the Committee, very candidly, that he came to this city with his mind almost made up to abolish the system entirely. With equal candor he now confessed his mind was undergoing a change.—No one, he hoped, came here with his opinions so firmly fixed as to be deaf to conviction.

He would, in a brief manner, examine the principal arguments which had been advanced in this discussion, by gentlemen opposed to the abrogation of the Borough system. It was urged, with great zeal, that the boroughs had invariably furnished the highest order of intellect in our General Assembly; and the conclusion must be, that if the representation from the towns cease, these distinguished gentlemen will be banished from our councils. The inference he thought an erroneous one. He did not deny the fact that the boroughs had been ably represented, and cheerfully acceded to every thing in their praise which had been stated by the gentleman from Buncombe; but he thought that abolishing the system, instead of quenching these shining lights, would diffuse their brilliancy over a wider space, and enlarge the sphere of their usefulness.

It had been said, that there was always a jealousy existing between the borough towns and the counties in which they are respectively situated, which would prevent the selection of town gentlemen, as representatives for the county, however capable. He feared the admitted jealousy had its origin in borough representation. Take away the cause, and the effect would cease.—Now, the citizens of the towns keep their eyes upon the borough representatives alone; but, take away the right of representation, and they will begin to extend their vision—they will take greater pains to enlighten the people than they now do, being dependent upon *them* for elevation, instead of a few citizens of the town.

The next argument advanced, he considered, had great force in it, and was the only legitimate one which had been adduced.—

It was this: That these towns, having a separate and distinct interest from the country, (call it Commerce, or what you will,) ought to be heard in the Legislature. Every interest, he thought, ought to be represented. He did not say, with the gentleman from Craven, (Mr. Gaston,) that the object of Government was to protect the weak against the strong. This might be said, with more propriety, to be the province of Law. The object of Government might more properly be defined, to protect the weaker interests against the stronger interests. In all Governments there are diversified interests, and there can be no security while these interests remain unrepresented. This is the very principle of Republican Governments. If there be then this separate interest, he could not hesitate to say, however small it might be, or where located, that it should be represented—that it should be heard and felt in the operations of Government. The true question then is—Is there this separate and distinct interest? He hoped to hear the question fully discussed.

He did not think that the intelligence of a community should weigh any thing, in arranging the fundamental law of the land, in favor of extending the right of Representation, when opposed by great principles. If this constituted a legitimate claim, why not carry out the rule, and divide counties, by separating the enlightened from the ignorant portion, giving a representative to the former and disfranchising the latter?

Mr. F. said, he did not think our inland towns had any separate and distinct interest requiring to be represented. There was a cogent reason why they should not. Who had not witnessed the excitement caused by these Borough Elections? Who had not seen the worst passions of our nature brought into active exercise by them? Who has not heard, that corruption of the basest kind was frequently practised to carry a doubtful contest. He knew these things, and how the whole system worked. Every man is known, as are his calling and necessities. His weak side is sought out, that he may be successfully approached. Sir, (to the Chair,) you know all these things. Have you not witnessed, at the elections in your borough, scenes of the most violent character, which not unfrequently terminated in bloodshed? Have you not seen men pressed for their debts, in order to drive them to pursue a course in direct opposition to their convictions of right? Have you not, sir, like myself, seen the elective franchise abused in every variety of form? The assertion of the celebrated British Minister, Walpole, that every man has his price, seems to be the governing spring of action in these borough contests—not always in money, sir—no, no; the considerations are various. I have seen in these contests, family arrayed against family, carried to the extremes of bitterness. I have seen neighbors separated and estranged, and social intercourse destroyed. Yes, sir, even has this pestiferous influence penetrated the Church,

and disturbed its harmony and brotherhood. This is not the case in counties; and why? The sphere of action is enlarged—the limits within which the candidate operates, are not so circumscribed, and he must contest the election on broader grounds.

These views brought him to the conclusion that the Boroughs in the lower part of the State, having separate and distinct interests, ought to be represented; but, so far as Salisbury was concerned, he wanted it, and other towns in the State similarly situated, to be denied the right.

Mr. MEARES had not intended to say one word on this question; but, some of the observations which fell from the gentleman last up, induced him to make a few remarks. In the main, he agreed with him in his views. He was of opinion, that borough towns had interests separate and distinct from the counties in which they were located—often adversary interests—interests, of which the Agricultural portion of the community knew nothing—which could not be protected by county representation.

The gentleman from Wake, (Mr. Seawell,) had remarked truly, that in the great regulation of Foreign Commerce, we are dependent on the authority of Congress, but not so with regard to the ordinary transactions connected with our State marine. These domestic regulations gave rise to a feeling of jealousy between the towns and the counties, which all must have witnessed—a jealousy between the buyer and the seller—both having the same interest, but viewing it in a different light.

He alluded to the subject of Inspection. Every year attempts were made in our Legislature, on behalf of the county, to alter the Inspection laws, and resisted on the part of the town. Why? The grower wants a loose inspection—the buyer a rigid one; because, in proportion to the rigor of the Inspection, is the value of the article abroad. Every Eastern man knew, that Turpentine, inspected at Wilmington, would command one dollar more per barrel in Liverpool than the same article from any of the Eastern counties, because the Inspection is known to be rigid. The jealousy which this state of things produces, will not be removed until every mind is enlightened. There is no radical difference, it is true, between these interests spoken of, if considered in a proper light, but they are regarded as different and adverse.

He alluded to the Quarantine regulations. It was of the utmost importance to Commerce, that they should be well understood, and rigidly enforced. What did country gentlemen know about this matter? It could not be expected to be understood by any but commercial men. You cannot enlist the attention of men in the examination of subjects which do not concern them.

Again; what did the member from a county know about the subject of Pilotage, so essential to the safety of our navigation? He referred to members of the Legislature present, to say,

what occurred when any discussion took place in the General Assembly on this subject. Why, the great mass of members, being totally ignorant on the subject, applied for information to the commercial gentlemen. These questions were often highly important, not only to the towns themselves, but to the whole State. Here, then, were great interests which could not properly be represented, if borough members were excluded. He agreed in opinion with the gentleman from Rowan, (Mr. Fisher,) as to inland towns. The causes which induced the framers of the Constitution to give them the right of representation, no longer exists; but the large commercial towns should have some person to place their interests in a proper light.

Much had been said about the probability of returning gentlemen of information from the counties, if borough representation were abolished. These instances might occur, but they would be rare. Who has ever known a mere Merchant sent to the Legislature from a county? So far as he knew, not once since the Constitution was framed. Very frequently professional men were sent; but it would most always be found, that though residing in towns, they were extensively engaged in agricultural affairs also, and have considerable agricultural interest at stake. But, even when there exists this community of interest, the instances are rare.

He acknowledged the heart-burnings and bitterness which were some times engendered by these borough contests. The smaller the number of voters, the more violent. This was an evil, he confessed, but it was confined to the boroughs alone.—What should these inconveniences weigh, contrasted with the great interests of the State, which he was advocating—interests which required to be fostered, and demanded to be represented?

Mr. HOLMES remarked, that he had been for a long time opposed to the system of borough representation, though a representative of the county which contained the largest town in the State. His mind, it is true, was yet open to conviction, and if he could be satisfied that there was this separate and distinct interest, of which gentlemen had spoken, he would not hesitate to say that it should be represented.

He understood some one to say, that it was not only the interests of the towns which required thus to be represented, but that the great interests of N. Carolina were concerned in the issue of this question. He thought all the commercial regulations which exist in this State, were the subjects of private legislation, and were limited in their application. For instance, sir, the Inspection and Quarantine laws. Is North Carolina so deeply interested in this local legislation, that her boroughs must be dignified with the privilege of sending a representative to protect that interest in the Legislature, in the face of all the evils which had been so admirably described by the gentleman from Rowan?—

But, sir, as great as are the evils which he pourtrayed, they are infinitely magnified in our Commercial towns. Our population is of a more abandoned cast—we have more dependent and more pliable materials to work upon. He alluded to seamen and others, who went to their employers to know how they should vote. Nothing was more common, than, a day or two before the election, to house the voters as they housed their cattle. This was no extravagance; he had participated in these contests, and knew the fact. Though living in Wilmington, he had, ever since 1819, been opposed to Borough representation.

In reply to the argument, that if the system was destroyed, the men of talents would be overlooked, he would remark, that the people were honest, and would always do what was right.—In Wilmington, the same gentlemen had represented town and county, and this had been the case elsewhere. He was not aware that Wilmington had ever been represented by a mere merchant; and as to any jealousy which existed, both sides were equally to blame. Country gentlemen were not always treated with politeness by the inhabitants of the towns—in trade, they each strove for advantage, and thus little matters produce considerable difficulties.

With regard to the Inspection laws, he differed with the gentleman from Sampson, (Mr. Meares.) He thought it would be better if the whole system of Inspection were abolished, for it operated unequally on the farmer as it now existed. Our turpentine, it was true, commanded a higher price in market than that made in other places, but for a very obvious reason—the barrels are larger, and they are sold by weight. Very frequently turpentine was condemned as unmerchantable, because a handful of drippings was found in it; the maker of it was put off with an inferior price, and the merchant profited by it.

With regard to Quarantine regulations, he held, that wherever a man's business or interest leads him, he should go. When a vessel arrives, it is desirable, to all concerned, that its cargo should be discharged as soon as possible. He believed, that if these quarantine regulations were committed to the guardianship of gentlemen representing both the agricultural and commercial interests, much more efficient measures would be adopted to prevent the introduction of diseases, than are now in force.

As to Pilotage, it was said that the Borough members were at home in this matter; but it was a fact, that, however conversant with it, no regulations had been made to give satisfaction. Year after year, were petitions circulated for an alteration of the system. There were two kinds of pilots, called branch pilots, and bar or ocean pilots. The latter exposes his life to the fury of the angry elements, and brings in a vessel to the bar; he is permitted to go no further; but, after undergoing all this fatigue, danger and anxiety, instead of being allowed to pilot his vessel to

the wharf, he is compelled, by existing regulations, to surrender his charge to another. Is this right, sir; is it fair?

The gentleman from Buncombe, (Mr. Swain,) had attempted, he thought, to array parties here. For himself, he did not come to produce excitement of any kind, or with the desire of influencing any body. That gentleman remarked, that the compromise of this question was owing to the magnanimity of the members representing borough towns. This was true; but what was the compromise? He could see no compromise where one party could possibly lose nothing. He called it a sacrifice of the interests of the smaller counties. He had voted against it, for he would infinitely prefer an unlimited Convention to such an one as this.

Mr. MEARES rose to state a single fact, which would show the injustice of proscribing the boroughs—a fact no doubt equally true of other towns, but he would confine his remarks to Wilmington. The county of New-Hanover pays a tax of about 2,500 to 3,000 dollars a year, of which sum the town of Wilmington alone contributes about 1700. In consequence of this tax, New Hanover is to have a Senator. Now how many people in Wilmington own the necessary freehold to entitle them to vote for a Senator. In 1828, he was a candidate for the Senate, and at that time, out of about 250 voters, there were only 48 possessing the right to vote. Here, then, were 200 voters paying a large tax, and deprived of the right of representation.

The gentleman last up had advocated the opinion, that every man ought to be his own Inspector! If there were no Inspection, we should see barrels of turpentine half filled with sand; because the chances of detection would be so small. To illustrate the value of the Inspection laws, he referred to the counties of Columbus and Robeson, the turpentine made in which, was floated through Lumber River and the Little Pedee to Georgetown, S. C. where they have no inspection. This turpentine is as well made, and from as good materials as ours. That which goes *via* Georgetown, and that which goes *via* Wilmington, both ultimately reach Charleston. And what then, sir? They are both sold, by weight too, sir, and the Wilmington brand brings one dollar more per barrel, simply because it *has been inspected*, and the buyer has confidence that all is right.

As to the dissatisfaction of the Pilots about the system, it is perfectly natural that men should want to get two dollars instead of one. Not content with conducting a vessel to the bar, the ocean pilot wishes to accompany it over the bar to town; but, the Commissioners of Navigation say, and with great propriety, you must not come beyond your prescribed limits. The coast must always be guarded; you are bound, under a heavy penalty, to be always on the alert, to render assistance to vessels which may require your services, and you must not abandon your duty under any pretence. Is this not correct policy, sir?

One more remark, and he was done. Look at the duties paid by Wilmington to the General Government. She pays, sir, \$100,000 in duties, a greater amount than is collected in the whole State besides. Is not this another consideration, and a weighty one, why she should be represented in your Legislature? He was done.

Mr. HOLMES said, it was true that Wilmington paid \$1,700 tax, but only about six hundred were paid by the Merchants.—With respect to the revenue accruing to the General Government, it constituted no reason why Wilmington should be represented in the State Legislature. The Government would take care of their own interests, and he wanted as little interference on its part with our State concerns, as possible.

Mr. McQUEEN said, like the gentleman from Rowan, (Mr. Fisher) he came here disposed to exclude Borough members, and the determination was strengthened by a belief that those who sent him here, entertained similar views. But we should beware of the indiscriminate application of any general principle. He had been convinced, since yesterday, of the danger of precipitancy and the necessity of deliberation in so momentous a work as now engaged their attention. It was not a thing to be done to-day, and undone to-morrow, but would last through all time, and entail its consequences on posterity. After the most solemn reflection, he had come to the determination to vote for the reservation of Borough representation in part. He did not know how it might affect him at home—that was a small matter, compared with his convictions of duty. But he knew that his constituents had liberality enough to sustain him in any course he might pursue, from a desire to advance the common welfare of the country. They did not wish him to stand with his hands and feet bound and see any great interest sacrificed.

The gentleman from Wake, (Judge Seawell) for whose talents he had the highest possible respect, had stated that the gentlemen representing counties in which these boroughs are situated, were in favor of abolishing the right. Had he reflected for a moment, the tones of eloquence, which have thrilled our hearts on this floor, would have convinced him such was not the fact. Salisbury and Hillsboro' had magnanimously surrendered their claims, because the interests of the State demanded it; but in Fayetteville, in Newbern, in Wilmington, the case was essentially different. They had a distinct and important interest which required to be watched with a guardian eye. Their claim to representation on this score, is strengthened by the large amount of taxes they pay and the number of their voters. It is a principle of our Government, to establish which our fathers bled and died, that taxation and representation should go together. In the organization of the Senate, the landed interest will be protected, and the more popular branch will repre-

sent the personal property. Indeed with the exception of the distinct interest which these boroughs have, there is no interest in the Government which is overlooked.

Take the Farming interest, and for no pursuit in life had he higher respect, and we find it, independent of the protection before alluded to, provided for in the very nature of our Institutions. Four-fifths of our voters are Farmers, and our Representatives are chosen in the same ratio. Look at the component elements of our Legislatures, and who does not perceive how effectually the farming interest is protected. This is not the only safeguard. There can be no danger of the passage of any law to injure this interest, and for an obvious reason; because every other interest is so linked with, and interested in it, that a principle of self preservation would forbid it.

Take another great interest—the Clergy—and you will find that they are abundantly provided for. No law can be passed to bear upon them oppressively, because a majority of the Legislature are always connected with some Religious profession, and all were convinced that Religion was the great source of happiness to the human race.

The Medical profession too were provided for, for being justly considered as temporal guardians of the people, there was no danger that their interests would be endangered by legislation.

Take the profession of the Law. In every Legislature, a large portion of the members are drawn from that class of persons, and he had never known lawyers to be accused of being blind to their own interests. Of course, no law could be passed to oppress them.

The Judiciary too, of which Sir, you are an honored member, is equally as well provided for as any other interest.—Every member of the Legislature will be for rallying around it. The abortive efforts to reduce the salaries of the Judges, show that the Legislature is impressed with the value of those tribunals to whom is confided the preservation of our lives and property, and will not molest them.

If then all these interests are provided for, why should not Commerce have its Representative? Will we turn an ear as deaf as the grave, to the application which is now made, to admit it to be represented in the deliberative councils of the country? Commerce is called the twin associate of Agriculture, and the latter cannot receive its appropriate reward unless the former is protected. We should guard against precipitancy in this matter. Not only will our decision affect the opulent merchant, but also the humble tradesman. Shall they be forgotten in arranging this matter? They are numerous and constitute an important part of the strength of our commercial towns, and it is due to them, that they should be provided for.

The gentleman from Orange, (Dr. Smith) had yesterday re-

marked that the system of Borough Representation was a remnant of the rotten boroughs of England. He hoped the old maxim borrowed from the fountain of immortal truth, that no good thing cometh out of Nazareth, would not be applied to this matter. If there are still some of the boroughs entitled there to representation, let us also make the proposed exception. The *best* there, are worse than the *worst* here. We have, it is true, occasional feuds and bickerings; but there, any wealthy individual can secure the election of his man, it matters not whether he lives within an hundred miles of the Borough which returns him. Is there any thing like this here? It may be right to exclude Halifax, Hillsborough, Salisbury, &c. Why they were admitted, he did not know—but there were towns certainly entitled to the distinction—towns, whose interests required that they should be represented by individuals closely identified with them in sympathy and feeling.

But it is said, the wants of these towns will be provided for by the county representation. He would say, if the Representative of the county was a faithful organ of the interests of those who elected him, he would have county duties enough to perform, without being embarrassed with town interests. Besides, it was a fact not to be disguised, and he stated it without disparagement to either party, that there is an inherent jealousy existing between town and country. Why did such a prejudice exist in Orange county against the University of the State, located within its limits, evidence of which may be found in the repeated attempts made to coerce the Faculty and Students to bear arms and work on the roads?

He alluded to the claims of Fayetteville, the people of which, upon the broad grounds of political justice, were certainly entitled to be heard in the Legislature through their Representative. He was informed by a gentleman on that floor, for whom he entertained the most unbounded respect, that at the last election in Fayetteville more than 400 votes were polled—that her citizens paid into the public coffers last year nearly \$1,000 tax—three times as much as some counties. If those who pay such a tax as this are not to be represented, what has become of the principles of political justice? Your Attorney General, Sir, is paid a considerable sum for defending the interests of the State, in the courts of Judicatory. Shall we refuse the petty sum that it would take to pay for the services of a Representative, to protect the interests of a whole community? Even Sir, the Universities of Europe have their Representatives in Parliament.—And why? Because they have *distinct interests*. That the system had evils, he admitted, but it was inseparable from the nature of our Institutions. Even the sun dispensed its warmth and light as well upon the murderer as upon the honest farmer—upon the unjust as well as the just. The Mariner's compass

guides as well the Pirate in his course, as the enterprising Seaman. Will the benefits to flow from extending this privilege, overbalance the evils? This Sir, is the true question.

Mr. BRANCH could not see any good reason why, if the three Boroughs alluded to were retained, the whole should not be.—He was willing to abolish the whole, but would not consent to any monopoly in the business. A great deal had been said about protecting the commerce of the Cape Fear and Neuse, but the rich trade of the Roanoke and Albemarle Sound had been overlooked. Was this equal and impartial justice? He believed that it would be a relief to the citizens of Halifax to be disfranchised, but it did not follow that it would be correct to do so.—The commerce of the Albemarle and Roanoke is most extensive. Shall we then neglect that interest, and have a care only for the Cape Fear and Neuse? He hoped not.

Mr. WILSON, of Perquimons, said, he was certain that every gentleman had come here disposed to legislate for the good of the whole, and not for any particular section, and their whole aim should be to produce a system of Constitutional law which should operate equally. With what semblance of justice, then, he would ask, was a member to be allowed to the towns of Fayetteville, Newbern and Wilmington, whilst Washington, Plymouth and Elizabeth City are to be debarred that privilege? Is it because they make a few more barrels of tar and turpentine? Is this the reason? How long before these smaller towns may outstrip the older ones in the career of enterprise? The commerce of Washington, he expected, was almost equal now to that of Newbern. We should examine well the localities of the country, and if we find thriving towns growing up, we should, in the exercise of a sound discretion, take care of them as well as older ones.

The gentleman from Halifax (Mr. Daniel) had gone yesterday into the origin of this Borough system, and shown satisfactorily to his mind, whence they derived their existence. The monkey was not the only imitative animal—men were equally so. Our forefathers scarcely touched this soil, before they began to exercise this imitative faculty. They brought the virtues as well as the defects of the Parent stock, and both were engrafted into our system. You have seen, sir, little Misses dressing their dolls, and Boys switching their stick horses. Like them, in the exercise of imitative powers, our fathers, to ape Great Britain with her Manchester, her Birmingham and her Liverpool, gave the right of representation to Halifax, to Edenton, to Hillsboro', &c.

If it be true that this right of representation is essential to the protection of their interests, why has not the fostering care of the Legislature, for more than fifty years, been able to preserve them from sinking into ruin? Halifax, sir, is gone—Edenton is going—and Newbern is not far behind. He denied that

the prejudices between town and country existed to the extent which had been asserted, and as a proof of it, cited the fact that there was hardly a town in the State, having a population of 500 persons, from which delegates had not been sent to this Convention. If there be any prejudice of this kind, the moment an occasion occurs which makes it the interest of the people to choose men of superior ability and information, that moment the prejudices vanish.

If it be true, that every interest should be represented, why not extend the right to the Mining interest—a pursuit which requires equally as much skill and capital to carry it on as the manufacture of tar and turpentine.

Another interest requiring much skill to manage it judiciously, was the Fishing interest. Ought this not to be protected as well as that which is confined to the sale of bacon, lard, whortleberries, &c.? Suppose an East India trader were to visit Newbern, and go to the market and through the principal streets, and see in one place a bale of cotton and in another a flitch of bacon, and should be informed that these traders were a class of men, whose interest being a *distinct one*, required to be protected by representation. Would he not sneer at us? Sir, the commerce of Newbern has decreased almost to nothing. When has an European vessel visited her shores? Not in a dozen years.

But, sir, it is said that there are mysteries about this trade and commerce which only mercantile gentlemen understand.—Why then, sir, do they not send Merchants, instead of Lawyers or Doctors? It was said important matters frequently came before the Legislature, in relation to these towns, which required the vigilant attention of these Borough Members. He was himself in the last Legislature, and he believed the only important subject which was canvassed, in which Wilmington was concerned, was a controversy about the appointment of a Justice of the Peace! And Newbern, sir, though like Wilmington well represented, brought no important matter before the Legislature, but a petition about the Inspection of Wood!

He had no idea if Borough representation was abolished, that our talented men would be laid upon the shelf. Not so, sir.—The people are honest and discerning, and if their rights are about to be invaded any way, they will call forth their men of intelligence, whether living in town or country, and this Convention affords a practical illustration of it.

Mr. GASTON, of Craven, remarked, that when any question was asked in that House, and no answer was given to it, the individual being present from whom it is expected, silence might be construed into an acquiescence in its truth. The trade of Newbern, diminished as he admitted it to be, was not in so melancholy a state as had been depicted by the gentleman from Per-

quimons. When, he asks, was a vessel from a foreign port seen there? If the gentleman meant by foreign port, an European port, he must confess that the European trade of Newbern was gone, and that arrivals from thence were indeed "like angels visits few and far between." This was owing to the obstructions at the Bar, and to the circumstance of New-York having become the great emporium of the importing as well as exporting trade. But if the gentleman meant West-India vessels, he could scarcely visit Newbern, and no one would be more pleased than himself to see him there, without finding a foreign vessel.

While up, he would remark, that the gentleman from Wake, (Judge Seawell) in speaking of his having been restrained from voting by conscientious scruples on the Convention Question, made a remark, which though probably, not intended, seemed to reflect on him—

Mr. SEAWELL rose and disclaimed any such intention.

Mr. GASTON was perfectly satisfied with this assurance; but, as what was said there, went out to the public, he thought it becoming in him, holding the official station he did, to proceed with his explanation. The Act of Assembly under which they were convened, proposed certain amendments to the Constitution in relation to the Judiciary of North-Carolina—three he believed. He felt however, not the slightest delicacy in expressing his opinion upon any or all of them. Whatever interest he might feel as a citizen of North-Carolina, in the result of our deliberations, he could say, that neither the honor or the emoluments of any office could influence him to say *yes* or *no*, against the honest convictions of his mind.

Mr. SEAWELL explained. He did not know until he took his seat, that there were any provisions in the Act relative to Judges. What he meant by scruples, was, that being in a strange county, he did not feel authorised, under a strict construction of the Act, to vote. He certainly had no allusion to any one.

Mr. TOOMER said, it was with much reluctance that he entered into this discussion; but the Committee would excuse him, as the question is deeply interesting to the county which he had the honor to represent, and is vitally important to a portion of its inhabitants. He had not expected the discussion at this period, and asked indulgence for the desultory manner in which a few remarks would be briefly submitted.

We derive (said Mr. T.) many of our notions of law and liberty, and many of our fundamental principles of Government, from that country whence our ancestors migrated. In the popular branch of the Legislative body of Great Britain, three distinct interests are separately represented—the *Commercial* interest, by the Borough members; the *Landed*, by the representatives of the Shires; and the *Literary*, by the members from the Universities of Oxford and Cambridge. Commerce, Agricul-

ture and Literature, have each its own representation to make known its wants, to protect its rights, and to prevent unjust embarrassment.

The great object of Government is to promote the happiness of man, and to advance the prosperity of the country. Republican institutions must be grafted on the affections of the people. Justice must be the basis of every fundamental principle. If wrong be done to any portion of the community, the oppressed will not suffer in silence: complaints will be made, reproaches will be uttered, the feelings of the injured will be alienated, and public commotions may follow.

The framers of our existing Constitution knew that this State was essentially Agricultural, and therefore gave that interest an exclusive representation in the Senate, and a numerous representation and overwhelming preponderance in the House of Commons. But they foresaw that a prosperous Agriculture would build up towns and create Commerce; and they designated six towns to be represented in the House of Commons, each by one member. To this number they subsequently added one other town, by an Ordinance passed in Convention in the year 1788. The House of Commons is now composed of 130 members, representing Agriculture, elected by the counties, and seven members, representing Commerce, elected by seven towns. The Senate is exclusively Agricultural, and the House of Commons having an Agricultural superiority, in the proportion of 130 to 7. In this attitude of public affairs, has the Agricultural any thing to apprehend from the Commercial interest, either in case of competition or collision? Whence, then, all this jealousy? Commerce is only armed with the power of making known her wants, and of supplicating the aid of the Legislative Councils of the country. Yet, this still, small voice is to be hushed, and her representation, at one fell swoop, is to be swept from our Halls of Legislation. We ask not an increase of power: we are willing to submit to its curtailment, but deprecate its annihilation. Our jealous neighbors, possessing strength, and monopolizing honor, answer our complaints in the spirit of Haman of old, and cry aloud, What doth all this greatness avail, "while Mordecai the Jew sitteth in the King's gate."

Our Commercial pretensions, said Mr. T. are ridiculed; and it is declared we have no Commerce. Let this proscriptive denunciation be silenced, by referring to the Cotton, Tobacco, Flax-seed, Wheat and Flour purchased in Fayetteville for exportation; and by the Rice, Naval Stores and Lumber shipped from Wilmington. He would not speak of Newbern, as others around him were better informed as to her trade. Look at the Report of the Secretary of the Treasury of the United States, made to Congress at its last session; see there the tonnage owned by the merchants of Wilmington, the shipping which left that port within

twelve months, and mark the duties arising from Commerce, received within the year, at the different ports of the State.

It is said, we have no right to regulate Commerce, or to legislate upon that subject; that the power has been delegated to Congress. It is true, that the Constitution of the United States gives Congress power "to regulate Commerce with *foreign Nations*, and among the several States, and with the Indian tribes." But have we no internal trade? Do not steam boats and other craft navigate your sounds and bays? Do not steam boats ascend the Roanoke to Weldon, and other craft to Milton? Do not steam boats ascend the Cape Fear to Fayetteville, and other craft to Haywood? Is not the General Assembly frequently engaged in legislating upon the subjects of Pilotage, Inspection and Quarantine? How long is it, since your Legislature had to act upon the subject of Bills of Exchange, and to regulate and prescribe the damages on protested Bills? Have you no Banking Companies in your Commercial towns? Have you no Navigation Companies to make canals, clear out streams, and remove obstructions from your rivers? Have you not Rail-Road Companies incorporated, and two now in the full tide of experiment? Is not the spirit of Internal Improvement awakened, and is not our State pride aroused? What patriot does not predict brighter prospects, and cherish anticipations of future greatness?

The principles of justice and of correct legislation inculcate the necessity of having every distinct interest in the community represented in the councils of the country. Although Agriculture and Commerce are, in theory, closely allied, yet, in practice, collisions occur, animosities are engendered; and they are arrayed against each other. It is true, that Agriculture, to be profitable, requires the aid of Commerce; and that by the success of the one, the other flourishes. But, in the transactions of business, in the operations of trade, causes of suspicion arise, fraud is imputed, envy and hatred follow, and the buyer and seller assume the character of antagonists. Those who pursue Commerce are collected in the towns, and invest their capital in lots and improvements, and in goods, wares and merchandize; the Agriculturalists reside in the counties beyond the limits of the town, and are dispersed through a widely extended territory, and invest their capital in land and negroes. Whenever the Revenue bill is revised by the Legislature, it is clearly seen, that the interests of those two classes of society are separate and distinct. On these occasions, the members representing the counties, advocate the propriety of increasing the Store tax, and of augmenting the rate of taxation on town lots. Notwithstanding the representation of the seven towns, their inhabitants now complain of the inequality of these taxes; they allege that the Store tax and the tax on town lots are not well proportioned to the tax on land, paid by the inhabitants of the counties. The present ratio of

taxation is declared to be unjust and oppressive. If you abolish Borough representation, the towns will be without any organ through which they can present their grievances, and make known their wrongs. We ask not, continued Mr. T. equality of representation; we contend not for the power of preventing usurpation and encroachment; we aspire only to the means of being heard, when our interests are brought into judgment.

It is supposed, that the members representing the counties in which the towns are situate, can represent the interests of the towns. But, here, are found separate classes, having distinct interests. They own different subjects of taxation; their pursuits are different; and they frequently come into collision with each other, as vendor and vendee. It is well known that this jealousy exists, and hostility is too commonly its offspring. Legislative experience in this State fully establishes the fact. Believe not, that these feuds and dissensions grow out of a jealousy felt by the inhabitants of the country at the enjoyment of the right of representation possessed by these towns; they are the consequences of a difference of pursuits, of habits and interests in these two classes of society, and spring from the nature of man. Think not, that the voice of your towns will be heard in your county elections, and will influence the representation of the county; no, the excess of population in the county will stifle the voice of the town, and overwhelm its influence.

South-Carolina, Virginia, New-York, and Massachusetts, have, within a few years, revised their Constitutions, and still reserve their Borough representation. Let us not servilely imitate the actions of others: but let us derive benefit from their experience and wisdom. For himself, he was unwilling to depart from ancient usages, without urgent reasons. Has not your Borough representation, hitherto, been of a character to add lustre to your legislative annals? Some of those who live, and now fill conspicuous places, it is our delight to honor. The memory of others, who have been gathered to their fathers, is embalmed with tears of gratitude. One he would advert to, who gloriously fell on the field of his fame, nobly struggling in the service of his country.

He trusted that the prejudice created by the repetition of the odious term *Rotten Boroughs*, would have no influence on the decision of this question. The wheat may be separated from the chaff, although it be in the proportion of two grains to the bushel. Let those towns having distinct interests from the counties, and interests of sufficient importance to be protected, retain their representation. Fayetteville pays into the Treasury of the State a tax above 12,000 dollars, being levied on its stores and town lots, and has a population exceeding 3,000; and the pursuits of its inhabitants are almost exclusively Commercial. The spirit of Reform which was first awakened in this country, and

now illumines the Eastern Hemisphere, has produced the abolition of the representation of some of the Rotten Boroughs in England, but the representation of the Commercial towns and cities is still exhibiting its former usefulness and its pristine splendor.

Mr. KING moved, that the Committee rise and report progress. *Negatived.*

The question on Mr. DOCKERY's amendment, (excepting Fayetteville, Newbern, and Wilmington,) was then put, and decided in the negative.

The question recurring on the amendment offered by Mr. SMITH, of Orange, to abolish Borough Representation entirely, Mr. MOREHEAD called for a division of the question. It was first taken on striking out, and decided in the negative.

Mr. M'DIARMID moved an adjournment. *Negatived.*

Mr. GASTON, of Hyde, moved to amend the amendment, by excepting from its operation Newbern, Wilmington, and Edenton. The Committee refused to amend, by a vote of 103 to 23.

Mr. HOGAN now moved a reference of the Resolution, and amendment, to the Committee of 26, appointed on the subject of the basis of Representation. The motion prevailed, the Committee rose and reported, and the Convention adjourned.

FRIDAY, JUNE 12, 1835.

After Prayer by the Rev. Dr. McPheeters,

On motion of Mr. DANIEL, the Convention resolved itself into a Committee of the Whole on the 4th Resolution of the Report prescribing the manner of proceeding with the business of the Convention, Mr. GASTON, of Craven, in the Chair.

The 4th Resolution, which relates to the abrogation or restriction of the right of free negroes or mulattoes to vote for members of the House of Commons, was read—when Mr. DANIEL moved the following Resolution:

Resolved, That to entitle any free person of color to vote for members in the House of Commons, he shall be possessed of a freehold estate of the value of \$250, free from all incumbrances.

Mr. DANIEL said, this proposition was not meant to have any effect on persons qualified to vote for Senators. The qualification proposed, to authorize free persons of color to vote, was intended as an incentive to this class of persons to use exertions to raise themselves in the public estimation. A white man who pays no tax cannot vote, neither ought a colored man who pays no tax. He was willing to leave the door open to all colored men of good character and industrious habits, as such would find no difficulty in obtaining the necessary qualification. Mr. D.

observed, there were three classes of persons in our community, viz: free white persons, free persons of color, and slaves. Even the latter is protected by laws from injury, from all except his master, and such as may act under his authority; any other person using violence towards a slave may be indicted, and is answerable to his owner in damages. Free persons of color are secured from injury by any one, having the same remedies for redress as the white man. They cannot indeed be witnesses against a white man. It is true, that many of this class are worthless in character, and to persons of this description, he would deny the right of voting.

Mr. D. thought it would be good policy to adopt such a course as would have a tendency to conciliate the most respectable portion of the colored population, and thereby give them a standing distinct from the slave population, and afford them an opportunity of some intercourse with the whites.

During our Revolutionary War, said Mr. D. a number of free persons of color rendered effectual service in the ranks of the army. He also spoke of measures lately taken by the British in liberating their slaves in the West Indies, and of the probability that the French would follow their example. He noticed also the proximity of our South-western States to those Islands; and spoke of the policy of cultivating a good understanding with the most respectable portion of our free persons of color, who might be very serviceable to us in case of any combination for evil purposes among their brethren in bondage.

Mr. D. said, that the Resolution which he had offered, was nearly a copy of one entered into by the New York Convention, and hoped it would be agreed to.

Mr. EDWARDS was glad the learned gentleman from Halifax had turned his attention to this subject. It was one upon which he felt some difficulty. An article in the Bill of Rights says, "that the people of this State ought not to be taxed or made subject to the payment of any impost or duty, without the consent of themselves or their Representatives in General Assembly, freely given." If this article bears upon our colored freemen equally with the whites, it would appear wrong, while we continue to tax them, to deny them a vote for members of Assembly. He should be glad of more light on this subject.—He said there were many free men of color who paid taxes, besides those who are freeholders. Ought they not to be represented in the Legislature also?

Mr. DANIEL replied, that the Bill of Rights did not apply to men of colour. It embraced only free white men. The Legislature had a right to tax any species of property. He was in favor of allowing the colored men of property and standing to vote for members; for from an observance of their conduct

for thirty years past, he could say, that they uniformly voted for men to represent them of the best character and talents.

Mr. BRYAN remarked, that the difficulty he had suggested to the gentleman from Halifax (Mr. Daniel) had not been, to his mind, satisfactorily removed by that gentleman; and that he would briefly submit to the Committee his views upon this subject. It is remarked by a distinguished author, "that the Constitution of a State may be free, and the subject not so—the subject free, and not the Constitution." The free negro, who does not enjoy an equality of rights with the white man, although he may be free to a *certain extent*, is subject to a *civil slavery*, and this is not inconsistent with the enjoyment of *civil liberty*, although it may be a partial restraint or modification of the uncontrolled exercise of all its privileges. This state of society will be found to exist under almost every Government; for in proportion as you grant exclusive privileges and rights to nobles or other privileged orders of society, you degrade, enslave and diminish the rights of others, who are excluded from a participation in them, and thus, in a measure, produce a system of *civil slavery*; and yet those who are thus deprived of the enjoyment of equal rights, are freemen, and are recognized as such by the Constitution of the country. I do not, therefore, think that much strength of argument is derived from the fact that they are called *freemen*, abstractly considered from their *rights* as such.—The gentleman further remarks, that they served long and faithfully in the Revolutionary War. This argument would apply with equal force and pertinency to our slaves, many of whom, the history of our country informs us, "did the State great and important services," in that trying and momentous period, and fought manfully and bravely in the embattled ranks of our Revolutionary armies; but the force and effect of this argument is much diminished also by the fact, that at the second Congress of the United States, an act was passed, excluding them from bearing arms in the militia. Honorable gentlemen have appealed to our magnanimity, and endeavored to excite our sympathy in their behalf. To my mind, their lot and condition is by no means a miserable one, and far surpasses the nondescript situation of the ancient Helots and Villens, or the ignoble condition of the oppressed peasantry of Poland, or the equivocal freedom of the European Serf. This is, to my mind, a *nation of white people*, and the enjoyment of any civil or social rights by a distinct class of individuals, is merely *permissive*, and unless there is a perfect equality in every respect, it cannot be demanded as a *right*; the history of our country informs us, that all the colored population were originally slaves, the first importation having been made into Virginia in the year one thousand six hundred and twenty; and it is now a matter of curious and interesting inquiry, how those who were subsequently emancipated

acquired the political rights of freemen. Is there to be found on record any act of the Government whereby these rights have been conceded to them? And is it not rather to be feared that party strife and warfare have given them a political importance which the institutions of the country never intended, and that a long and silent acquiescence in the enjoyment of certain political rights, have created a violent presumption in their favor. I presume that when they were emancipated, they were permitted, without any express authority, to enjoy certain civil or social rights—the peace and security of society required it, and there was nothing incompatible “with the freedom and safety of the State” in this. Civil or social rights are defined by Mr. Justice Blackstone to be reducible to three heads: the right of personal security; the right of personal liberty; and the right of private property. Can it be doubted that the free negro might be permitted in our Government, fully to enjoy all these, without being invested with those political rights which are so loudly and eloquently claimed for him by his able advocates on this floor. If by the laws of a State, the master is permitted to emancipate his slave, and thus to withdraw from him his protection and care, and the security which, *as property*, they throw around him, he must necessarily, by virtue of the spirit and equity of the same laws, become invested with certain civil or social rights, which will enable him to maintain his new relative situation in society; and these are all that he can claim. Are any more rights than those of personal security, personal liberty, and private property, essentially requisite to preserve and maintain the civil existence of this manufactured freeman? The nature of our Government and the institutions of the country, never contemplated that they should be placed upon an equality with the free white man. Does the Act of Assembly, which empowers our Superior Courts, upon petition, &c. of the owner of a slave, to cause him to be emancipated, confer upon that tribunal any power or authority to invest and confer upon the emancipated slave any political rights? In my humble judgment, and I advance the opinion with due deference to the distinguished gentleman from Halifax, (Mr. Daniel) such a construction is a misrepresentation of the powers of the act. It is true, that the emancipated slave, in the qualified sense of the term, is made a freeman, but only so *quoad* the master—he is by the operation of that act, liberated and discharged from the control and dominion of his master, and made “a free negro.” I would ask, in order to test the soundness of this construction, if the Legislature of any State can confer the rights of *citizenship* upon any individual, and whether any gentleman will advance the opinion, that any person, other than a *citizen*, can be permitted “to vote for members of the Senate and House of Commons?” Is a free negro a *citizen*? This brings me to the difficulty which I suggested to

the gentleman from Halifax, at the opening of this debate. If he is a citizen, he is entitled to the full benefit of that clause in the Constitution of the United States, which declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." And is this the fact? Has not our Legislature declared, and that too under the sanction of our Superior Courts, that no free negro shall come into our State, except under very severe restrictions, and if any of them shall leave it, and be absent more than three months, he shall, in case he returns, be subjected to high penalties, deprived of his liberty, and reduced to a condition worse than our slaves? In South-Carolina, a similar law has been enacted by the Legislature of that State, and a case arising under it, in which a free negro coming into the State, was declared by one of its Courts to have incurred the penalties.

[Here Mr. DANIEL remarked that the constitutionality of that law had never been determined by the Supreme Court of that State, but only by an inferior Court.]

Mr. B. remarked, that the force of the argument was not much impaired by that fact—if this law involved the great and inalienable rights of man, and conflicted with the fundamental law of the land, and was so manifest a violation of principle, why was not the question carried by appeal to a tribunal of ultimate resort? Why was the decision of an inferior Court, upon a matter which involved the freedom or slavery of a human being, acquiesced in? If this supposed infringement of a perfect right, was deemed of sufficient importance to require a resort to an inferior Court, the magnitude of the principle, the interests of the country, and justice to the free negro, if the decision below were incorrect, demanded a correction of the error by a Supreme tribunal. The uniform acquiescence in the constitutionality of the law, public opinion, legislative construction, and the decisions of our inferior Courts, at least create a violent presumption in favor of its correctness, and demand much respect in the discussion of a doubtful right. The States of Virginia, Ohio, Maryland, Louisiana, and others, have expressly declared, in their respective Constitutions, that a free negro is not a citizen, by depriving him of the right of suffrage: and the gentleman from Halifax might, with equal propriety, declare, that the Constitutions of those several States were in conflict with the Constitution of the United States, and consequently void. I will not attribute such monstrous doctrines to that distinguished gentleman; although, according to my humble judgment, there is a manifest conflict of authority and power, between the acts of the Legislature alluded to and the Constitutions of these States, and that of the United States, if it be insisted upon that a free negro is a citizen. The gentleman from Warren (Mr. Edwards) expresses doubts, whether a free negro is not included in the term *freeman*, so often

mentioned in the Bill of Rights and Constitution of this State. If he be the *descriptio personæ*, which that term includes, there is then, an end of this difficulty and debate. The expression of opinion advanced by the venerable President of this Convention, (Mr. Macon,) who was cotemporary with the formation of the present Constitution of this State, is entitled to great respect, and coincides with the generally received opinion on the subject. He has declared, that previous to the formation of that Constitution, a free negro was never known to vote, and that he well recollects, that they never exercised that privilege until a long time after the adoption of the Constitution. The caption to the Constitution of our State, declares it to be “the Constitution or form of Government agreed to and resolved upon by the *Representatives of the Freemen* of the State of North Carolina, *elected and chosen* for that particular purpose;” and in the body of the Constitution, after enumerating the grievances, and oppressions to which he had been subjected by the British Monarch, it declares that, “therefore, *we, the Representatives of the Freemen* of North Carolina, chosen and assembled in Congress, for the express purpose,” &c. If *free negroes* were not, previous to that time, nor until a long time after, permitted to vote, they were not represented in the Congress of Halifax; they had no part nor lot in the election of the Representatives, and in the formation of our Constitution; the Representatives never derived any authority from the free negroes, as a constituent of the freemen of the State; the Constitution was not framed with an eye to their rights and privileges, and they were *not* regarded at that time, as composing a part even of the *freemen* of North Carolina; and with due deference, I make the assertion, that they are *not freemen*, within the meaning and operation of our Constitution. I would respectfully ask, whether an instance can be found, where a free negro was permitted to vote for delegates to the Congress of 1778, on which the old articles of Confederation were formed; and whether, in declaring therein, that the citizens of each State shall have free ingress and egress, to and from any other State, and shall enjoy therein, all the privileges of trade and commerce, subject to the same duties, &c. as the inhabitants thereof respectively, it even was contemplated, or admitted, that *free negroes* were intended to be included within the provision. The history of the times proves the contrary, and the declarations of the venerable gentleman from Warren, (Mr. Macon,) have assured this Convention, that previous to that time, and long after, they were not considered as citizens, so as to entitle them to vote. Having satisfied my mind, that previous to our Revolution, and a long time after the adoption of our Constitution, they were not permitted to vote, nor regarded as citizens and freemen, in the acceptance of the terms required by the Constitution, I would enquire, how have they since become freemen and citizens, so as to entitle

them to this important privilege? As was very properly remarked by the gentleman from Warren, (Mr. Macon,) who ever heard of a colored man being naturalized, or being called upon to take the oath of allegiance? I venture to affirm, that no such record can be produced, and no one instance alluded to. If, then, free negroes at these respective times, were not regarded as citizens, &c. can the State of North Carolina make them *citizens* of these United States, either by any power she may derive from her Constitution, or the exercise of those reserved rights, which the Constitution of the United States guarantees to each State? One of the expressly granted powers to Congress, is, to establish an uniform rule of naturalization; and, so long as a provision to effect this object is in existence, I apprehend that no State can admit a class of individuals, to the rights of citizenship of these United States, in any other way, or by any other prescribed mode. I would even go further, and say, that if they are, to all intents and purposes, citizens of the State, they are citizens of the United States; and if my construction be correct, the same power, viz. our Superior Courts, which emancipates the slave from the control and dominion of his master, makes him a citizen of the United States, inasmuch as the advocates contend that an emancipated slave is a freeman, and has a right to vote. This would be a virtual repeal of the exercise of, or a concurrent power with the naturalization acts of the United States, either of which, I need not say, would be unconstitutional. What becomes of the inalienable rights of these boasted freemen and citizens, when the Legislature of our State passed an Act, authorising the Courts, upon conviction of any of them, for a petty misdemeanor, and an inability on their part to pay the costs thus incurred, that they should be hired out for the same? If the same policy had have been adopted, with regard to the *free white citizens*, is there a doubt in this Convention, but that with one voice, from the Mountains to the Sea-shore, the people, the Judiciary, and all the powers of the Government, would have declared, that the act was void, and that it was an unconstitutional "deprivation of the liberties and privileges of a freeman." It cannot be disguised, that there is a vast and mighty difference between the Constitutional rights and privileges of a free white man and a free negro, or else the legislative construction, and acts, have done gross and violent injustice to this unfortunate class of inhabitants. It is also true, that the Convention Act, by virtue of which we are authorised to amend the Constitution, in empowering us to abrogate or restrict the right of free negroes or mulattoes to vote, would seem to imply, that they were heretofore entitled to this privilege, or why *abrogate* and *restrict*, that which they had no right to enjoy? I am free to admit, that this has been regarded as a doubtful right, and that in expressing the decided opinion which I maintain, I differ from many of the most distinguished

gentlemen of this Convention; but I cannot believe that clause of the Act as a concession of the right to the free negroes, but as only the expression of the willingness and anxiety of the people to have this long vexed question put to rest. I have ever entertained the opinion that they had no right to vote, and must confess, that I have heard no argument that convinces me of the incorrectness of that opinion. North Carolina is the only Southern State in the Union that has *permitted* them to enjoy this privilege; and so far as my experience and observation extends, her interests have not been promoted by the concession of the privilege; and I venture to assert, that the welfare and prosperity of those States that have excluded them, have been very materially advanced, by denying to them the elective franchise. As I previously remarked, this is a nation of white people—its offices, honors, dignities and privileges, are alone open to, and to be enjoyed by, white people. I am for no amalgamation of colors. The God of Nature has made this marked and distinctive difference between us, for some wise purpose, and assigned to each color their proper and appropriate part of the Globe; and I never can consent to this equality, until “the Ethiopian shall be enabled to change his color, and the Leopard his spots.” Does expediency or a sound policy require us to grant them this privilege? I am aware, that there are many of this unfortunate race, who are deserving of a better political fate than will be entailed upon them by this act of disfranchisement; and whilst I regret the necessity which compels me to include the good among the bad, I must enforce the sound political maxim, that the interest of the few must yield to the public good.

It is said that it is an act of gross injustice and a violation of the Constitution, to disfranchise those who pay taxes, &c. and to control their property and liberty by laws which *their Representatives* never made! What burdens of the Government do they bear, and to what amount is the Public Treasury swelled by their taxes? What care, anxiety and interest do they feel in the welfare and prosperity of the Government? When the laws of the land secure to them the enjoyment of personal security, personal liberty and private property, and exempt them from many onerous duties, they are well repaid for their poor and very inadequate support of the Government. If this be truly a violation of the Constitution, it would by the same reasoning, be equally as unjust and oppressive to exclude them from seats in the Senate and House of Commons, from the offices of Governor, Judge, &c. for if by that instrument, they are entitled to vote, they are not debarred by that instrument from the enjoyment of these high and important posts of honor and emolument. There must be some stopping place to this latitudinarian concession of political rights, for the more you make, the greater seems to be the necessity of conceding others, and the best

policy requires that you should adopt that course which will create the least dissatisfaction, and close the avenue to their ambitious hopes, and give certainty and permanency to our institutions upon this subject, in all coming time. Suppose by admitting them into the political family of the State, they should increase in number so as to constitute the majority of voters, will this construction which their advocates have given to our Constitution, exclude them from all the high offices of the State, and deprive them of the sole control and management of our State Government? I answer no! and the extension of the principles of their argument, satisfactorily convinces me of the danger, illegality and inexpediency of the proposed measure, and of the certainty that the Constitution never contemplated that they were embraced within the term "freemen," as therein contained, or that they were entitled to the political privileges appertaining to that term. The State of North Carolina is surrounded by States that have taken away from them all the privileges of freemen, except those of a social character. Let it be understood that we have incorporated into our Constitution, a provision granting them certain high political rights, and given them an equality which is extended to them in no other State; and what will be the consequence? Our good old State will become the asylum of free negroes; they will come in crowds, from the North, South and West, and we shall be overrun by a miserable and worthless population. If we hold out inducements to any portion of the human race, to come and settle amongst us, let it be to those of sober, honest and industrious habits, and such as feel an interest in, and duly appreciate the institutions of the country. Admit, for the sake of argument, that you extend the right of suffrage to the free negro—do you benefit him, or advance the interests of the country? Sir, you make him the corrupt tool of the designing and ambitious demagogue, and subject him to a slavery *ten times* more ignominious than that of the disfranchised private citizen—you increase the sources of corruption for your own citizen, without conferring any benefit on the free negro.

The restriction of the right to vote, to those who shall be possessed of a freehold estate of the value of 250 dollars, free from all incumbrances, will be either productive of great frauds, or amount to an almost total disfranchisement. I am opposed to every measure which is in conflict with my conceived notions of the construction of the old Constitution, and entertaining these opinions, as well upon the policy as the expediency of the measure, I can never consent that the voice of the free negro should weigh, or be heard in the disposition of my property and rights. It may be urged that this is a harsh and cruel doctrine, and unjust, and by no means reciprocal in its operation. I do not acknowledge any equality between the white

man and the free negro, in the enjoyment of political rights—the free negro is the *citizen of necessity*, and must, as long as he abides among us, submit to the laws which necessity and the peculiarity of his situation compel us to adopt. It is said that by depriving them of this right, you degrade them, and thus make them dangerous citizens. The fact proves the reverse, for in several of the Eastern counties, they are not permitted to vote, and they have acquiesced in this determination with cheerfulness and contentment—their excitement and interest never extend beyond the temporary gratification of the enjoyments of the muster ground and election, and their patriotism is limited to the little selfish feeling of self-importance, which these occasions give them, together with the sycophancy which the demagogue evinces to them, in the shape of spirituous liquors and congratulations for the welfare of his wife and children! What know they of the great principles of government, and what interest do they feel for its welfare and prosperity? Long experience, expediency and good policy, have convinced all our Southern sister States, that they are dangerous and useless citizens.—[Here Mr. B. read the articles from the different Constitutions of the several States on this subject.] These articles are the offspring of great political sagacity and wisdom; and although they have no binding efficacy upon us, yet we may be permitted to “borrow light from proximate Constellations,” and by adopting the experience of others, avoid dangers and difficulties that might otherwise occur. I differ in these opinions, from many distinguished gentlemen in this Convention, and I may be permitted to remark, that it has had the effect to induce me to examine and scrutinize those opinions with great care and assiduity, and all my investigations have resulted in a firmer conviction of their truth and correctness. This conclusion may work in some instances, a seeming, partial injustice, but it will produce a public good.

The PRESIDENT (Mr. MACON) said, perhaps he went further in his opinions in relation to this subject, than other gentlemen. He would say, that free persons of color never were considered as citizens, and no one had a right to vote but a citizen. The Revolution in this country was made by British subjects. Many slaves, and some free negroes, entered into the service, like other persons, who were not subjects. The Crown cannot make subjects; it can make what are called denizens. No one can say that a colored man was ever naturalized, or called upon to take the oath of allegiance. They have been employed to fight, but were never made citizens—they made no part of the political family; the negroes were originally imported in the way of trade, like other merchandize.

The President said, he did not approve of the land qualification for voters. Suppose two respectable neighbors had each a

son, that one of them had 50 acres of land, perhaps not worth more than 25 cents an acre, and the other had no land, but was a good blacksmith or shoemaker, and his standing in society irreproachable, why will you allow one to vote, and not allow the other? If any qualification is necessary, he would prefer age; it is age that makes the man. He would rather take age than property. He knew respectable families of free negroes who had no property; but he believed that none of them had any right to vote.

The opinion of New York had been mentioned. If the clause which had been referred to, were to be again considered in that State, it would now be rejected. We are in a very different situation from that—they have but few persons of this description—we have large numbers.

What, said he, can we do with these people? They are amongst us—we have no Moses to undertake their cause. He supposed they must remain with us. It is doubtful whether our Southern country can ever be cultivated by white men; or that the vast quantity of our Swamp lands can ever be drained; or other Internal Improvements be made without them. It is proper that these colored people, whether free or in bondage, should be well treated; but he was opposed to any of them being allowed the right of suffrage.

Mr. BRANCH observed, that no doubt the Convention had a right to act upon this subject. Free persons of color have heretofore been permitted to vote in this State, and the question now is, whether this right shall be continued, abridged, or abrogated. The gentleman from Warren thinks this practice ought to be abolished. Mr. B. was willing to disfranchise the greater portion of this class of persons. The amendment proposed by his colleague would deprive ninety-nine hundredths of them of the privilege of voting. He was willing to keep the door open to the most intelligent and deserving of the free men of color. He was unwilling to part with the freehold qualification. He admitted that age makes a man; but he thought property ought also to be considered. A floating population, however aged, could not be relied upon; they were here to-day and gone to-morrow. Our social compact could not be held together, but for the mutual interest which binds us to each other.

He thought his colleague had given some strong reasons why the whole of this class of our population ought not to be cut off from voting, and no man is better able to form a correct judgment on the subject than himself. The county of Halifax has at present two or three hundred voters of this description; and should their delegates, on their return home, be under the necessity of telling them that the Convention had wholly abrogated their right of voting, the information, he feared, would not be

well received. He hoped, therefore, a different result would be come to.

Mr. WILSON, from Perquimons, rose to offer an amendment to the present proposition. He observed, that however much colored persons might be elevated, their color alone would prove a barrier to keep them in a degraded state. And the moment a free mulatto obtains a little property, and is a little favored by being admitted to vote, he will not be satisfied with a black wife. He will soon connect himself with a white woman. He would, therefore, offer the following Resolution, in order to settle the question at once. He moved to strike out all the Resolution at present before the Committee, except the word "Resolved," and insert, "that free negroes and mulattoes, within four degrees, shall not in future be allowed to vote for members of the Senate or House of Commons."

Mr. MEARES asked the gentleman from Perquimons to withdraw his amendment for the present, and suffer him to offer one which he thought would settle the question in the most satisfactory manner.

Mr. WILSON assented.

Mr. MEARES then moved the following amendment:

"It is the opinion of this Convention that, by the existing Constitution of this State, free persons of color never have been considered as citizens, and therefore not entitled to vote; and that no privilege to vote for Senators or members of the House of Commons shall hereafter be extended to any free persons of color."

Mr. COOPER was opposed to allowing the privilege of voting to this class of people on any terms. He was glad to hear the venerable President of the Convention express so decided an opinion on the subject. He was convinced that any extension of the privilege to free persons of color would have a bad tendency, and he hoped, therefore, it would not be acceded to. He should vote for the proposed amendment.

Mr. SPEIGHT, of Greene, thought with the gentleman from New-Hanover, that free negroes are not recognized in the Constitution, and are not therefore entitled to vote. He was opposed to the freehold qualification. He thought with the gentleman from Warren, (Mr. Macon,) that age was a preferable qualification. If a freehold qualification was to be adopted, free negroes would be the last people he should think of applying it to. They were declared by law to be incapable of holding any office of trust or profit, and he believed it was a pretty general opinion amongst the people, that free negroes and mulattoes ought not to exercise the right of suffrage.

The motion of Mr. MEARES produced considerable debate, in the course of which, a doubt was expressed whether the Convention was not going beyond the bounds prescribed in the act under

whose authority they met, in thus discussing an abstract question, viz: whether or not a free person of color is a citizen of the United States; and to put an end to the discussion, Mr. Meares withdrew his motion.

Mr. WILSON then renewed his motion to amend Mr. Daniel's proposition.

Mr. HOLMES wished to state the reasons which would induce him to vote against the proposed amendment of the gentleman from Perquimons. There are, said he, many prejudices existing against the free people of color in my part of the country, and it is true that many of them are in a degraded and corrupt state; but he believed that the white people were as much to blame as them, for they are principally the corruptors of the morals of these people. He was of opinion that it would not be good policy to withdraw from them entirely the privilege of voting. Such of them as possess property, and are of good standing, ought to be distinguished from those of the class who are vicious and disorderly. He had no doubt that such a course would be the means of conciliating the most worthy men amongst them, who might, in any case of difficulty with the slaves, prove very serviceable to the white inhabitants, by discovering to them any symptoms of discontent which might hereafter arise amongst the slaves. An instance or two of this kind was mentioned by Mr. H. as having heretofore taken place.

The question on Mr. WILSON's amendment, was put and carried, 61 to 58 votes.

The Committee then rose, and reported the Resolution to the House, and the Convention adjourned till to-morrow morning, 9 o'clock.

SATURDAY, JUNE 13, 1835.

After Prayer by the Rev. Mr. Jamieson,

The PRESIDENT took the Chair, and stated the Order of the Day to be the Report of the Committee of the Whole on the 4th Resolution, which had reported a Resolution in the following words:

“Resolved, That free Negroes and Mulattoes, within four degrees, shall not be allowed to vote for members of the Senate or House of Commons of this State.”

Mr. SHOBER did not rise to discuss the question whether free negroes and mulattoes are citizens. Much had already been said on this subject, and much more might be said. It was sufficient for him that they were human beings, are free agents, and have a free will. We have always considered them as subjects fit for taxation and fit for certain public duties. If fit for these purposes, they ought to be allowed some privileges. All persons

owe allegiance to some power. It was said yesterday, that free negroes owe no allegiance; that before the Revolutionary War, they never became citizens of Great Britain. He did not know how this was. He knew that the British were always ready to lay their hands on their subjects, wherever they found them.— But it is said, at the close of the war, these persons were not called upon to take the oath of allegiance. Of this he knew nothing. Their descendants being born here, surely acquired some right, and must owe some allegiance. He never heard of a free negro taking the oath of allegiance. These persons are deserving of some consideration, and ought not to be cast off and thrown into the ranks of the slaves of our country. They ought to be considered as a class of persons standing between the whites and the slave population, and in proportion as we raise them above the slaves, by allowing them certain privileges, they will become our safeguard from any evil designs from them; but if, by neglect, we force the free negro into the ranks of the slaves, we can expect no friendly aid from them. Mr. S. concluded by moving to amend the above Resolution, by striking out all after the word “Resolved,” and inserting, “that free negroes and mulattoes who possess a freehold property of the value of \$100, shall vote for members of the House of Commons.”

Mr. GILES was in favor of this amendment. He said, called upon to consider the expediency of amending the Constitution of the State, which had been in operation for more than half a century, he determined to act with much caution, and to decline acting at all until he was convinced that some inconvenience had been experienced under some provision of the old instrument.— He said he was no innovator. He did not wish to move on unsound ground. If he were convinced that any evil had arisen to the country from allowing free negroes and mulattoes to vote for members of Assembly, he would be willing to deprive them of that right. But before he consented to this course, he must be satisfied on the subject.

It had been said, that these persons have had considerable effect in carrying elections. This may be the case; but where is the proof that these persons gave such elections a bad direction?

We have been told also, that the votes of these free negroes can be purchased in the market. He would venture to say, that the vote of a negro was never offered in market until he knew there was a purchaser. And who is the purchaser? He is a white man, the friend of one of the candidates. If we purchase the votes of free negroes, we are to blame. We ought to set them a better example. Can we believe that the reign of demagoguism is to have no end? Is no good to be expected from the expression of a sound public opinion? He hoped and trusted that the manner in which this public body has been brought to—

gether, will produce some effect on future elections in this State. The people, by their own free will, sent us here, and when this sound principle is generally acted upon in our elections, we shall hear no more of the votes of free negroes being purchased. No free negro would ever think of offering his vote in the market.— Do we owe these people nothing? asked Mr. G. We have the power, and ought to devise some mode of raising them from their present degradation. Mr. G. said, he had had nothing to do with the legislation of the country. He had been a mere looker on; but he was of opinion that our Legislature had been remiss in their duty towards this class of people. Instead of attempting to improve their situation, they appear to have acted on a principle of enmity towards them. He should like to see a different course adopted. He thought with the gentleman from New-Hanover, that it would be good policy not to deprive the respectable class of free colored people amongst us from voting, and thereby attach them to the white population, rather than by a contrary course, to drive them back into the ranks of the slaves. He was therefore in favor of adopting the proposition of the gentleman from Stokes, which held out a motive to free persons of color to become industrious and respectable, and to acquire property sufficient to qualify them to exercise the elective franchise.

Mr. GUINN thought the proposition of the gentleman from Stokes offered the elective privilege to these people on too easy terms. He preferred the motion of the gentleman from Halifax, which fixed the freehold qualification at \$250, and he would be for excluding all from this privilege, whatever might be their property, who had been convicted in any of our Courts, of a criminal offence.

Mr. CRUDUP said, no man could wish more than himself, to see the race of men in question raised from their present degradation; but he did not think that giving them the elective franchise would effect this purpose. He did not think them qualified to exercise this right. Nor did he think the possession of a freehold property, of the small value of \$100, would be a sufficient guarantee against the abuse of the privilege. Some intelligence and moral character were necessary to qualify a man to exercise this privilege, though no government had ever made a provision of this kind. The gentleman from Rowan thinks the white people are the means of corrupting this class of people, in their exercise of the elective franchise. He would be willing, therefore, to cut off this source of corruption. It had been said that they generally vote for the best men. His experience had convinced him to the contrary; he was of opinion that any candidate who would associate with them, might obtain their vote, however low his qualifications. These people, he said, were from their color, a separate class. Some gentlemen think that

they might be divided, and that the favored portion of them would attach themselves to the white population. He was of a different opinion. He thought it would be best to leave the division as nature had made it. He was willing to allow that there were many individuals amongst the free people of color, who were virtuous and exemplary in their conduct; but he did not think it would be good policy to attempt to draw a line of distinction amongst them.

Mr. GASTON, of Craven, said, the Convention could be scarcely expected to settle more than general principles. He wished, therefore, in the present instance, the Convention would take up the Report of the Committee of the Whole, and by a vote on that, determine whether it will allow free persons of color to exercise the elective franchise on any terms. If it determine that it will not, debate about qualifications will be at an end. If the Report be negatived, then the question as to the proper qualification will be a proper subject of discussion. To prevent unnecessary debate, he hoped the gentleman from Stokes would therefore withdraw his amendment for the present.

Mr. SHOBER accordingly withdrew his amendment, and the question was stated by the Chair to be on agreeing to the Report of the Committee of the Whole—on which question the Yeas and Nays having been called,

Mr. M'QUEEN observed, that no gentleman would be more reluctant than himself to vote for the introduction of any clause in our fundamental system of laws which would curtail the privileges, diminish the happiness, or pain the sensibilities of any class of human beings on earth, no matter how humble; and that few, he believed, indulged in feelings of profounder sympathy for human woe than he did, where cases of individual suffering were presented. But, where public policy and public justice urged the performance of any duty upon him, he felt himself imperiously bound to stifle the remonstrances of feeling, and to resign himself to the convictions of duty. He said that he was perfectly convinced that a denial of the right of suffrage to the free persons of color would operate with some degree of harshness in a few instances; for there were some of that unfortunate class who had singled themselves out from their associates by their meritorious and exemplary conduct; but that it would be an impolitic species of legislation to release the operation of a general principle for the benefit of a few individuals. He should consequently vote for a total abrogation of their right to vote.

He differed entirely with his friend from Rowan (Mr. Giles) in the belief that the right of suffrage should be extended to persons of this description, for the purpose of acting as a stimulus to virtue and to merit. The blessing of freedom has been usually extended to them on the same principle, but it was never contemplated, in admitting them within the circle of liberty, that they

were to enjoy the benefit of a full political or social communion with the whites. The nature of our condition, and the cast of public sentiment in this country, raises an impassable barrier to any such state of things as this; and, if we once commence the work of holding out to them political privileges, as an incitement to virtue, we might as well insert some clause in the constitution, making the highest offices of the country accessible to them, and providing that they should have their special Representatives in the State and Federal Councils.

Mr. M'Queen said, it must be admitted by every member on that floor, that every Government is invested with the power of restricting the rights of their citizens, where it is for the public benefit that they should do so; that they should, from maxims of sound policy, withhold certain immunities from one class of citizens which are extended to another class.

It has been deemed advisable, in this country, to render the Presidential Chair inaccessible to all persons of foreign birth. The Constitutions of some of the States have excluded from giving testimony in the Courts, and from being elected to office, those who disbelieve in the existence of a future state, on the ground, that such persons, having no faith in that sacred system of laws which constituted the foundation of oaths, could not be relied on in the testimony which they would render; and, that they were not fit guardians of the public interest in any important office, inasmuch as they repelled a belief in that Religion which has been uniformly considered the principal conservatory of the public happiness. The Constitution of almost every State in this Confederacy, has a clause inserted in it requiring a residence of twelve months in the State, from every citizen, before he shall be entitled to vote. This is for the purpose of his acquiring such an interest in the welfare of the community in which he resides, as will guide his vote in the different elections. No person under twenty-one years of age, in this country, is allowed to vote, no matter how highly cultivated his mind, how sound his judgment and how pure his character, on the ground that the generality of such persons do not entertain just conceptions of the public interests. No person who is not endowed with a freehold qualification of fifty acres of land, in this State, can vote for a Senator, and no person not possessed of a freehold of 300 acres is entitled to a seat in the Senate. These are all prohibitions, restrictions and exclusions, which have been deemed essential to the public welfare, wherever they have been adopted. Now, he asked, where is the monstrous breach of justice and humanity in excluding free mulattoes from the right of suffrage, if these restrictions on the liberty of white persons be founded in sound policy and justice? No person would deny that we might pass a law declaring that no citizen of Africa should vote in the elections of this State, though he landed on the American shore invested with

the mantle of freedom—and why? Because, he contracted notions in the land of his birth, at variance with the interests of the country. If he did not relish the institutions of this country, with that restriction imposed, he might depart. If, then, there would be no peculiar degree of hardship in excluding those Africans from the right of suffrage who were free when they stepped on the shore of this country, where would be the monstrous injustice of excluding those from the pale of the elective privilege whom we have released from slavery—those whom we have absolutely delivered from the burthens which they brought with them here.

Now, Mr. Chairman, said Mr. M'Queen, I put this question: Does a free negro aspire to the blessing, merely for the sake of acquiring a right to vote, or does the blessing of freedom bring along with it a pride of character which makes him aspire to this right; or, in other words, would he reject the boon of freedom, if proffered him unassociated with a right to vote? The probability is, that the right of suffrage never enters his head when he is struggling to obtain his freedom; he is willing to accept of it on almost any conditions you may dictate. Now, it is proposed to invest the free negroes with the most important privilege which is exercised by the white population of the country. Whence do they derive their title to this equality of privilege? Are they recognised by public sentiment as constituting that class of people from which the political power of this country should flow in the whole, or even in part? Is there any gentleman on this floor, who would be willing to see the right of suffrage extended to free persons of color, if they were likely to constitute a majority of voters in the State? What sad disasters would flow from such a state of things as this? Well, if we would not be willing to invest them with the right of suffrage, in case they were in a majority, it is not a sound principle to extend it to them whilst they are a minority; for no principle is a sound one, which cannot be carried out. The public sentiment of this country does not admit them to the enjoyment of any office of honor or profit; yet, strange to tell, the law of the country permits them to have a voice in excluding white persons from office.

Now, sir, said Mr. M'Queen, I do insist that there is a broad partition line between the fitness of free negroes to exercise the right of suffrage, and free white persons. The negro came to this country in a state of slavery, with no expectation of sharing in the distribution of its political privileges, and with no expectation on the part of others, that he would share in them. He came here debased; he is yet debased, and there is no sort of polish which education or circumstance can give him, which ever will reconcile the whites to an extension of the right of suffrage to the free negro. And without we adopt our laws to the public feelings of the country, they will forever constitute an offence to

the people. The Government of this State never rendered the free negro a slave. It found him in a state of slavery, and reduced to that condition by the agency of others; but the Government of this State, in his emancipation, has placed him in a better condition than it found him, and in a better condition than he had a right to expect. But because it has relieved him from the yoke of his master, and extended over him the ægis of its protection, does this furnish any solid reason why the State should invest him with the power of ruling over others. The white portion of the population of this country constitutes the proper depository of political power. They bled for it, they wrote for it, they spoke for it, they expended their treasure for it; their wisdom and valor has preserved it; they have exercised it in justice and in mercy over the white and over the black. The right of suffrage is founded not only on the interests which the voter presents for the protection of the law in the community in which he lives, but also on the sympathy of feeling with those who surround him, and the lively interest he cherishes for the preservation of the existing institutions of the country. No person can read the Virginia Bill of Rights without being forcibly struck with the manner in which the essentials to the right of suffrage are defined in its 6th Article. It is there proclaimed, that all men having sufficient evidence of common interest with, and attachment to the community, are entitled to the right of suffrage. There is no State in the Union in which the rights of man are more clearly comprehended, than in Virginia. But the very same instrument which defines what kind of person a voter should be, excludes free persons of color from voting. He would ask, if there is any solid ground for the belief that a free mulatto can have any permanent interest with and attachment to this country? He finds the door of office closed against him, by the bars and bolts of public sentiment; he finds the circle of respectable society closed against him, let him conduct himself with as much propriety as he may; he finds himself suspended between two classes of society—the white and the black—contemned by the one and despised by the other; and when his favorite candidate in an election prevails, it communicates no gratification to his breast, for the candidate will be a white man, and he knows full well that the white man eyes him with contempt. He cannot therefore feel any profound degree of interest in the preservation of the existing state of things, for he would fare as well under any other system. If a foreign power from abroad invade the country, he would as soon take sides with that power as with the citizens of this State; for he would still remain a free man, whether he fell into the hands of the Irish, the French, the Scotch or the Dutch.

It is clear to my mind, said Mr. M'Queen, that this class of persons ought not to exercise the right of suffrage, and he could not believe that it was contemplated by the framers of the Con-

stitution that they should enjoy the right under that instrument. The current of public sentiment sets strongly against their exercise of this right; and their want of education, the tame spirit of submission with which they are moulded to the will of an influential neighbor, renders it entirely impolitic that they should exercise the privilege.

The Constitutional provisions of other States in the Confederacy are not of binding authority on us, in the revisions of our fundamental Charter; but, in a matter of probable expediency, like the one now before us, the example of other States should fall with impressive weight on our minds. In Connecticut, a State remarkable for its tenderness and benevolence to this class of people, they are expressly excluded from the right of suffrage. In New-York, no free person of color is permitted to vote, unless he possesses a freehold of 250 dollars, free of all incumbrances. In Ohio, a Commonwealth peopled chiefly by New-England, and partaking largely of its benevolent feelings towards this class of people, they are expressly excluded from voting; and in the whole Southern, and Western, and North-western range of the Confederacy, they are excluded in every State, except two, (and perhaps they are now excluded in those two,) Tennessee and Maryland. Why, then, should we continue this right to them, without the return of a solitary benefit?

Mr. GASTON, of Craven, said, the inquiry was not now whether we should grant the right of suffrage to free blacks, but whether we should take it away. Had they never enjoyed the right, perhaps they would not at this time have thought of aspiring to it. The hardship lay in depriving them of what they had long been in the enjoyment of. Evils always do result from sudden changes, whether in our physical or political condition.—Compel an Equimaux, whose greatest luxury is the lapping of train oil, to dine at the table of a French Restaurateur, and you make him miserable—he would loathe what refined society considers as luxuries. Mr. G. said, he would be willing to restrict the right of suffrage to free colored persons. But, a person of that class, who possessed a freehold, was an honest man, and perhaps a christian, he did think should not be politically excommunicated, and have an additional mark of degradation fixed upon him, solely on account of his color. Let them know they are part of the body politic, and they will feel an attachment to the form of Government, and have a fixed interest in the prosperity of the community, and will exercise an important influence over the slaves.

Mr. COOPER was opposed to allowing one class of free blacks the right to vote, and excluding the other. Jealousies would be created between them, and much mischief would be the result.—He did not believe them capable of exercising the right of suffrage

judiciously. With a little to drink, and some trifle, they could be "bought like a lot of poultry."

Mr. MOREHEAD offered an amendment, providing that no free black shall in any case vote for members of the Senate, nor for members of the Commons, unless he possess a freehold of the value of \$100. If we close the door entirely against this unfortunate class of our population, said Mr. M. we *may* light up the torch of commotion amongst our slaves.

Mr. WILSON, of Perquimons, did not believe a free black qualified to vote: he had not the requisite intelligence nor integrity. We already exclude a colored person from giving testimony against a white person. A white man may go to the house of a free black, mal-treat and abuse him, and commit any outrage upon his family—for all which the law cannot reach him, unless some white person saw the acts committed:—some fifty years' experience having satisfied the Legislature that the black does not possess sufficient intelligence and integrity to be entrusted with the important privilege of giving evidence against a white person. And after this, shall we invest him with the more important rights of a *freeman*—the high privilege of exercising the functions of a voter? He heard almost every body saying, that slavery was a great evil! Now he believed it was no such thing—he thought it a great blessing, in the South. Our system of Agriculture could not be carried on, in the Southern States, without it—might as well attempt to build a rail-road to the moon, as to cultivate our swamp lands without slaves. There are already 300 colored voters in Halifax, 150 in Hertford, 50 in Chowan, 75 in Pasquotank, &c. and if we foster and raise them up, they will soon become a majority—and we shall next have negro justices, negro sheriffs, &c.

Mr. TOOMER said, he believed it was generally conceded that the existing Constitution did extend to free blacks the privilege of voters. The exercise of that right by every free *man*, was coeval with the Constitution. Now, to abrogate that right, would be tyranny; and the plea of policy could not alter the case, as that had, in all ages, been the cry of tyrants, to justify their oppressions. If the Legislature had, from time to time, excluded free persons of color from sundry privileges enjoyed by the whites, it was no argument in favor of subjecting the former to still greater exclusions.

The question was then taken on striking out the Report of the Committee of the Whole, and decided in the negative, Yeas 62, Nays 65. After which the Report was adopted (which abrogates, *in toto*, the right of free colored persons to vote) by Yeas and Nays, as follows:

YEAS—Messrs. Averitt, Adams, Bonner, Barringer, Baxter, Brittain, Bailey, Brodnax, Boddie, Crudup, Cox, Cooper, Calvert, Collins, Edwards, Faison, Gatling, Gaither, Graves, Gilliam, Gary, Hogan, Hargrave, Hussey, Hooker, Hodges, Huggins,

Howard, Hutchison, Harrington, Halsey, Jervis, Jacocks, Lea, Lesueur, Macon, McQueen, Melchor, Marchant, Meares, Norcom, Outlaw, Pearsall, Pipkin, Ruffin, Ramsay, of Pasquotank, Roulhac, Styron, Sawyer, Skinner, Spaight, of Craven, Sugg, Stallings, Speight, of Greene, Sanders, Spruill, Tayloe, Wilson, of Edgecomb, Williams, of Franklin, Welch, Wooten, Wilson, of Perquimons, Wilder, Young,—66.

NAYS—Messrs. Andres, Arrington, Bower, Branch, Biggs, Bunting, Birchett, Cathey, Cansler, Chalmers, Chambers, Carson, Daniel, Dockery, Dobson, Elliott, Ferebee, Fisher, Franklin, Gaston, of Craven, Gaston, of Hyde, Guinn, Grier, Gaines, Gray, Giles, Gudger, Hall, Holmes, Jones, of Wake, Jones, of Wilkes, Joyner, King, Kelly, Morris, M'Millan, M'Pherson, M'Diarmid, Morehead, Martin, Marsteller, Montgomery, Moore, Owen, Powell, of Columbus, Powell, of Robeson, Parker, Rayner, Swain, Shipp, Smith of Orange, Smith, of Yancey, Seawell, Sherard, Shober, Troy, Toomer, White, Williams, of Pitt, Whitfield, and Wellborn—61.

On motion, the amendment was referred to a Select Committee.

Mr. SWAIN then moved to take up the fifth Resolution in the Report on the order of taking up the business of the Convention, proposing an enquiry whether any amendment is necessary to be made to the Constitution to disqualify members of Assembly, &c. from being such while they hold any office under the U. States' Government, &c.; and as he did not believe there would be any difference of opinion on this subject, he moved, that this Resolution be taken up in Convention, without going into a Committee of the Whole upon it.

Mr. GASTON said, it was with reluctance that he objected to this proposition; but he thought it due to the magnitude of the subject on which they were engaged, that nothing in relation to it should be passed upon, without first being considered in a Committee of the Whole. The operation would occupy but little time; as, if no amendment was proposed in Committee, it would immediately rise and report the Resolution to the Convention without amendment.

Mr. SWAIN was willing the course proposed should take place. His only object was to save time.

The Convention resolved itself accordingly into a Committee of the Whole, **Mr. SHOBER** in the Chair. No amendment being offered to the proposition before the Committee, on motion, it rose and reported, and the Convention adopted the Resolution, without a single remark.

Mr. SHOBER moved, that the Convention go into a Committee of the Whole on the 6th Resolution, to enquire whether any amendments should be made in the Constitution, so as to make the capitation tax on slaves and free white polls equal.

The Convention resolved itself into a Committee accordingly, **Mr. DOCKERY** in the Chair.

Mr. GAITHER moved the following Resolution:

“Resolved, That it is inexpedient to make the Capitation Tax on Slaves and free White persons equal.”

Mr. DANIEL moved to amend this Resolution, by striking out the word “inexpedient,” and inserting *expedient*.

Mr. GAITHER said, that as slaves were property, and not persons, he was opposed to placing them on a footing with the

whites in any shape. He thought they should be taxed as property, and a wide distinction be made between them and white freemen, as objects of taxation. Moreover, it would be inexpedient, and almost impracticable, to equalize the poll tax, as proposed. White males pay a poll tax, between the ages of 21 and 45—blacks, males and females, between 12 and 50. Now, would we undertake to say that all whites, males and females, between 12 and 50, should pay a tax on their heads? It is preposterous: it would not be attempted. Or, should we say that no slaves, except those between 21 and 45, shall be subject to taxation—when, in most cases, they are as valuable to their masters under and over those ages, as at any other period of their lives. He was disposed to leave the discretion with the Legislature, where it now rested.

Mr. BRANCH expressed some surprise that the gentleman from Burke should have so misconceived the spirit in which this Convention was called. He called upon gentlemen from the West, to know if this was the light in which they viewed the compromise, by which it was hoped to settle the Convention question.

Mr. SWAIN thought the views of the gentleman from Burke entirely erroneous; he knew they were not the views of the Western Members of the Legislature, who last winter effected a compromise of the Convention. One leading principle was to provide against unequal taxation. What he understood by equalizing the tax between white and black polls, was not to disturb the periods as now fixed, between which the poll shall be subjected to taxation; but to say, that if a white poll (male between 21 and 45) pays 20 cents tax, a black poll (male or female between 12 and 50) shall pay no more nor less than that sum. As representation in the Senate is to be based upon taxation, the West would diminish her representation in that body by making the tax larger on the black than the white poll—and the representation from the East would be increased in the same ratio, their slave population being proportionally greater.

After some further remarks, Mr. GAITHER withdrew his amendment, the Committee rose, reported progress, and the Convention adjourned.

MONDAY, JUNE 15, 1835.

After Prayer by the Rev. Mr. Jamieson,

SAMUEL P. CARSON, a Delegate from the county of Burke, appeared and took the prescribed oath.

On motion of Mr. SPEIGHT, of Greene, the Convention resolved itself into a Committee of the Whole, Mr. SHOBER in the Chair, on the Resolutions reported by the General Committee, in relation to the number of members to compose each House.

Mr. SPEIGHT remarked, that he had given notice that when these Resolutions came up, he should move to strike out 120 (the number of members recommended for the House of Commons,) and insert 100; but discovering that several gentlemen were desirous of proposing other numbers, he would content himself now, by simply moving to strike out 120, without suggesting any number to be inserted.

Mr. EDWARDS said, the motion submitted by the gentleman from Greene, had reference to the House of Commons. He thought certainly that the first branch of the resolution relating to the Senate, ought to be first considered, and then the remaining clause, having reference to the Commons, would properly come up.

No objection being made to this suggestion, that part of the Resolution relating to the Senate, was read, and the question having been stated from the Chair to be on its passage,

Mr. HARRINGTON, believing that it would meet the views and wishes of the great body of the people, moved to strike out 50 (the number of Senators recommended) and insert 34, the smallest number mentioned in the Act of Assembly; and he gave notice, that when the other branch of the Resolution came up for consideration, he should move to strike out 120, and insert 90—also the smallest number mentioned in the Act.

A division of the question being called, and the Chair having stated it to be, in the first place, on striking out—

Mr. DANIEL hoped the motion of the gentleman would not prevail. The Senate ought not to be so large as to be unwieldy, but it should not be so small as to be liable to be warped by faction within, or corrupted by influences from without. He thought 50 not too large a number to act with necessary despatch, and wished therefore, that it might be retained. The decisions of a body of this size would inspire greater confidence in the community. It was not because he was an Eastern man, that he wished this number; it was from no considerations of a personal character, that he desired it; but from a sincere belief, that such a number was both expedient and proper.

Mr. SWAIN remarked, that the gentleman from Greene having given notice, on Saturday, that he should move to amend the Report of the Committee, by inserting a number different from that recommended, he had expected to hear him assign the reason for that course. The Report of the Committee of 26 had been prepared with due deliberation and reflection, and as Chairman of it, he was prepared to assign the reasons which influenced them, whenever the gentleman favored the Convention with his views. He would not do this now, for “sufficient unto the day is the evil thereof.” He would say, however, that they were sent here for the express purpose of compromising this question of Representation. Minor points might have attracted the attention of individuals, but this was the main point, the great busi-

ness for which they were selected. They had not only been deputed to the discharge of this duty, but each of them had sworn they would do it, and for himself, he was determined to carry out the intention of the Act of Assembly in good faith. Even if they were not acting under the high responsibilities of an oath, the best interests of the State required that the matter should be adjusted; and they could hardly lay claim to the character of good citizens, if they did not do it.

The only fair construction, he thought, which could be put upon the Act under which they were assembled, was, that in arranging the number of members in the respective branches of the Legislature, the relative proportion should be observed.—If they went to extremes in one, so should they also go in the other; if they took the largest number in the Senate, they should also take the largest in the House; and if they adopted the smallest in the Senate, they should adopt the smallest in the House also. He did not see how, in any other way, they could carry out the great principles of compromise embraced in the Act of Assembly. Other gentlemen must judge for themselves; but he felt bound to preserve this relative proportion between the two branches. Whether he should go for this precise distribution of power before the people, was another question; but as a member of this Convention, there was no alternative left him.

Mr. SPEIGHT, of Greene, said, it was true that he had given the notice spoken of by the gentleman from Buncombe, and that when he rose that morning, he had also given his reasons for varying his motion. The Convention having determined to consider that part of the Resolution first, which related to the Senate, he felt precluded thereby from entering upon the merits of his motion as to the number which should compose the more popular branch. He would assure the gentleman, however, that he was mistaken, if he supposed he had any disposition to shrink from the discussion of this question. But, in his own language, “sufficient unto the day is the evil thereof.” He might not bring as much ability to the discussion as the gentleman from Buncombe, but he trusted he should perform his duty with equal fidelity.

He would very briefly state his views on the subject under consideration, and being necessarily connected, he might also throw out some remarks in reference to the House of Commons. In the outset, he would premise, that no member of that Convention was more anxious to see harmonious action restored to the distracted councils of the State, than he was—no individual in that Committee, who more deeply regretted the sectional divisions which existed, than himself. He believed they were more imaginary than real; but they existed, and, as the gentleman from Buncombe properly remarked, the great business for which they had assembled was to heal the breach. When he first came

to this City, it was well known he was opposed to taking the oath prescribed by the Act of Assembly; not because he wished to break up the Convention; not because he was unwilling to do justice to the West—but because he thought the compromise suggested was not as equitable as it might have been. He repeated his belief that the Legislature were actuated by patriotic motives, but he was opposed to the plan, because, while the Eastern counties were treated with injustice, justice was not done to the West.

What, said Mr. S. is your compromise? The Senate is to be composed of some number ranging from 34 to 50 members, to be ascertained by a certain ratio of taxation. What species of taxation do you take? Is it the land-tax, the store-tax, or the poll-tax only? No, sir, they have descended into every description of taxation known to our laws, and represented every species of vice and immorality. There can be no permanency about it; it must be continually fluctuating; one thing, one year—a different thing, the next. Suppose the number 50 be agreed on—the ratio of taxation will be about \$1,400; so that every county which pays a tax of \$900 can entitle itself to a Senator by the erection of a Billiard Table.

Mr. S. said, the only plan which, in his opinion, ought to have received the sanction of the Legislature, was this: A Senator from each county, and Representation according to free *white* population in the House of Commons. He admitted that if North Carolina was a new State—a body politic just thrown together—the plan proposed by the Committee might answer, and he would be willing to see it adopted. But this is not our situation. We have existed for sixty years; we have become accustomed to the form of Government established by the Fathers of the Revolution; we have grown with its growth, and strengthened with its strength. In reforming the evils which have crept into the system, regard should be had, as well to the feelings of the community, as to the public good. He laid it down, as a principle of all good Governments, that they should conform to the feelings of those who compose it; if it does not, the object for which it was instituted fails of its purpose. The injustice of this compromise is, that while *white* population is only represented in one branch of the Legislature, slaves are represented in both departments. Is this fair—is it doing justice to both parties? Would it not be more equitable to adopt such a plan as he had suggested? It was a fundamental principle, that wherever property had the ascendancy over population in a Government, there was something permanent about it, and not liable to fluctuation. He referred to the Senate of Virginia, in illustration of this, where the State was laid off into districts, and its members elected for a term of years.

The proposed plan would not, he was confident, give satisfaction, if adopted. He preferred the largest number mentioned,

not that he apprehended from the West any tyrannical abuse of power, but because it would work the least injustice to the smaller counties, and therefore would produce the least shock. Fifty Senators would require a ratio of \$1,400; but thirty-four Senators would require a ratio of \$2,000. Another reason against a small Senate was, that it would be more apt to be subject to extraneous influences, and more liable to corruption.

The proper number for the House of Commons, though not immediately before the Committee, was inseparably connected with it. At a proper time, he would move to strike out 120, and insert a smaller number, and for this reason. Every gentleman who had listened to the language of our Western brethren in the Legislature, when petitioning for a redress of their alleged grievances, must recollect that one of the principal reasons always assigned, was, to bring about a more economical administration of our State Government. He should follow up their ideas of economy, and propose to insert 100, because it would be a great saving to the State.

Mr. S. said, he was not one of those who feared the transfer of power to the West would be attended with such calamitous results to the Eastern interest. No such apprehensions influenced his course, but it was dictated by a desire faithfully to represent the views of his constituents. He wished to concede to the West all that he could, but it was impossible to acquiesce in 120 Commoners, for that would throw the burden on the smaller counties, while the larger ones would not be affected. A fair course would be to give the West ascendancy in the House of Commons, and the East ascendancy in the Senate. This was the only arrangement which would be satisfactory to his constituents, and he appealed to the magnanimity of the West to extend this measure of justice to them. He acknowledged the right of a majority to rule, but said there were checks and balances for the security of the minority; and when this should cease to be the case, our Government would be more odious than the despotism of Europe.

Mr. WELLBORN said, he approached the subject with great diffidence, but having to give a vote on this important question, he felt bound to state the reasons which would influence him.—He said it was idle for gentlemen now to talk about this plan or that plan. The gentleman from Greene had had repeated opportunities to propose his compromise in the Legislature, but he never thought proper to do so.

Mr. SPEIGHT asked leave to say one word in explanation. During the seven years that he was in the Legislature, there was no proposition submitted to the House of which he was a member, for a Reform of the Constitution.

Mr. WELLBORN resumed. About 30 years ago, this question had been brought by him before the Legislature, and the subject had been constantly agitated ever since. At that time, the West-

ern counties, many of them an hundred miles in extent, were uncultivated, and the savages roamed through our borders. Time after time, have we petitioned the East to give us that weight in the Councils of the State, to which our wealth and population entitled us. We have asked them for appropriations to make highways and rail-roads, and what has been their answer? They said Nature has supplied us with the means of reaching a good market, and we will not be taxed for your benefit. What would have been our situation now, if the West had been in power, instead of being as our State is, without patriotism or public spirit? The Central Rail-Road from Beaufort to the mountains, would long since have been completed; the Cape Fear and the Yadkin would have been united; a vigorous system of Internal Improvements would have been carried into successful operation. Look at South Carolina and Virginia, extending their improvements in every direction of the State, and contrast our situation with theirs. No wonder, when a North Carolinian goes from home, that he is ashamed to own the place of his nativity; and, if interrogated on the point, makes out that he at least lives very near the Virginia line!

With regard to the assertion, that 120 members would operate injuriously to the Eastern counties, it was founded in mistake. There would scarcely be an eastern county which would not have two members. It was also a mistake that the West wanted power—they wanted justice; and it is on that principle that every decision should be made in this body.

He had heard gentlemen say, since he came here, that it would never do for the West to have the preponderance, for they would make Rail-roads and come down to the East. Well, sir, we should do them no harm, for there is not a more virtuous and industrious population in the world than that which inhabits the Western counties of North-Carolina; and the variety of our productions, he had no doubt, would be acceptable to them.

Mr. W. concluded by saying, that if the West had the power, a system of Internal Improvements would be commenced, which would change the face of things, and put at once a check to the tide of emigration which is depopulating the State.

Mr. BRANCH said, if he knew himself, he would not take an advantage of any portion of the State, in the adjustment of this question, even if it were possible to obtain it; because it was bad policy, to say nothing of the impropriety of it. He had always thought honesty was the best policy. Acting on this principle, he was prepared to concede as much as possible—to part with every thing not involving actual wrong. The situation of the East is different from that of the West; we are called on to surrender power; is it not the duty of gentlemen to show that they are entitled to it? Was it not the duty of the Chairman of the Committee to assign the reasons which brought them to the con-

clusions developed in the Report? What right had that gentleman to call for reasons from other persons, before he himself had given any? The proportion of representation, under the old Constitution, between the House of Commons and the Senate, is *two for one*. He had never heard this complained of. Have the Convention the power to make the proposition recommended by the Committee? Is it sufficient that the Act of Assembly gives the power? Surely not. At all events, the Act was not obligatory.

The gentleman from Buncombe contends, that we must maintain the proportion recommended, or act in bad faith. It was certainly not his wish to do so, nor did he think that any imputation could rest on those who voted against the numbers recommended. The question submitted to the people was, "Convention or no Convention," and that was the only issue; he therefore did not consider the Act binding as to this point. It was not his desire to place the decision of this question on sectional grounds. He regretted to see sectional views so often introduced here; it was calculated to produce evil, and could do no good. We had met as brethren, and should mutually concede as much as possible, manifesting a spirit of courtesy and kindness. He knew the gentleman from Wilkes (Mr. Wellborn) was patriotic, and was concerned for the condition of the State. He only rose to say that he should depart from the proportion recommended; but, in so doing, did not feel that he was acting either unjustly or unfairly.

Mr. SWAIN said, that he was very far from supposing that the gentleman from Greene was disposed to shrink from a discussion of this question with him or any one else. He attributed his course to a very different motive.

To the gentleman from Halifax, (Mr. Branch,) he must be permitted to say, that he was perfectly aware, that, as Chairman of the Committee, it was his duty to explain and sustain the Report. It would be recollected, however, that immediately on its introduction, before any opportunity of explanation was afforded to him, its reference to a Committee of the Whole, accompanied by a notice that, on this morning, he would propose to strike out 120, and insert 100 in the second Article, was made by the gentleman from Greene. The high opinion which he entertained of his ability to do justice to any cause he advocated, had admonished him, not rashly to thrust himself into the front of the contest, but quietly endeavor to maintain the ground which the gentleman from Greene had been pleased to assign him. The Committee had just been favored with the views of the gentleman, in support of his motion, and he (Mr. S.) would now proceed to consider them, and the Report, in the order prescribed for him.

He would say, with perfect sincerity, that if he knew his own heart, no gentleman in this Convention came to its deliberations

with less of party or sectional feeling, or more anxious to terminate forever, the differences between the two sections of the State, than he. He trusted, indeed he was confident, that a correspondent feeling influenced the great body of the Convention, and yet he was not without apprehensions as to the result. The utmost caution and circumspection were indispensable to a happy termination of our labors; and if passion and prejudice are permitted for a moment to assume the reins, incalculable injury might result from it.

We have convened, said Mr. S. under the provisions of an Act of Assembly, which defines and limits our powers, and he did not hesitate to say, that he differed entirely from the gentleman from Halifax, with respect to its construction, and the consequent obligations which it imposes upon us. Every provision in it is obligatory, not simply because the Legislature enacted it, but because the people had ratified it. If a fair construction of the Act, as it appears of record, justified and required the proportion between the Senate and the House of Commons which the Committee had assumed, it was idle to urge that individual members did not so intend. Other gentlemen must construe the obligations imposed by the Act and by the Oath, for themselves, but for one, he should regard a substantial departure from the relative proportions it prescribed, as a violation of the compact. He believed that the interest of the whole State would be best subserved by the adoption of the number proposed by the Committee. It was our solemn duty, however, to settle this controversy, and he was prepared, therefore, if such should be the will of the majority, to acquiesce in the selection of 34 and 90, the lowest numbers recognized in the bill, or of any intermediate numbers between these and 50 and 120. Unless his opinions underwent a great change, however, he would not yield his assent to any numbers which did not preserve the proportion which he considered to have been settled on by the charter under which they acted. He believed that the lowest numbers prescribed would not meet the concurrence of a majority of the people, and though he would cheerfully submit to the determination of a majority here, the question would present itself under very different circumstances, when he should be remitted to his ancient privileges as one of the free citizens of a free State. He thought the gentleman from Halifax erred in supposing that his construction of the Act was a reflection upon the wisdom of the General Assembly. Four-fifths of the Constitutions of our sister States recognized a much greater disparity of numbers between the two branches of the Legislature, than had been assumed by the Committee. In Maine, the proportion of the Senate to the popular branch, was as 25 to 186, or 1 to 7; in New Hampshire, 12 to 230, or 1 to nearly 20; in Massachusetts, 50 to 561, or 1 to 14; in Rhode Island, 10 to 72, or 1 to 7; in Virginia, the propor-

tion was about 1 to 4; and in the new Constitution just adopted by Tennessee, 1 to 3. It was scarcely necessary to swell examples. If numbers gave weight to the decisions of the Commons, gravity, dignity and wisdom would impart it, in no less degree, to the determinations of the the Senate.

He agreed with the gentleman from Greene, that 50 was not too large a number for the Senate, but he differed entirely from the opinion, that principles of economy demanded a proportionably smaller House of Commons. It was said to be a bad rule which would not work both ways. If you reduce one, reduce both. Neither curtailment is necessary. In 1820, the population of this State was 639,000; in 1830, 738,000; and in 1850, a proportionate increase would yield nearly a million. Were 170 persons too numerous a representation of a million of inhabitants? Would the expenses incident to a Legislative body of 170, be too grievous to be borne by a million of people?

Mr. S. said that he was aware that discussions here should begin and end with the Act of Assembly under which we were called together. The gentleman from Greene, however, has attempted to show that a compromise made by the General Assembly was neither liberal nor wise. His argument will go forth to the people, who will ultimately decide this question, and it is proper that it should be accompanied by the views of those who dissent from his opinions. For himself, he was disposed to conceal nothing here or elsewhere. Every view he entertained, as to the relative advantages which would be derived by each section of the State, was at the service of all who desired it, in the Convention or out of it.

He said he doubted whether the principles of compromise, which would have met the concurrence of the gentleman, were, on the whole, as favorable as those adopted by the General Assembly. Governments were instituted among men for the protection of life, liberty and property. His notions of the *beau ideal* of representative Government, was perfect protection *to persons* in one branch, and *to property* in the other. The great contest in the Virginia Convention was upon this principle, and those who maintained it were denounced as aristocrats, within that most aristocratic State. Individuals more democratic than himself, but perhaps not less so than some of his constituents, demanded white population as the basis of representation in both Houses. The only objection he had to the principle which we are required to adopt, is the substitution of the *federal number* for *white population*, as the basis of the House of Commons.

To those among his friends who doubted the necessity which exists for the protection of property in one branch, he begged leave to submit the consideration of a single fact. If regard be had to the imaginary line, so long regarded as separating Eastern and Western interests, there will be found 37 counties con-

stituting the former and 28 counties the latter section. Divide the amount of taxation for 1833, paid by each section of the State, by the number of white souls it contains, agreeably to the census of 1830, and it will be found that each white person in the Eastern counties pays into the Treasury something more than 14 cents, while in the Western counties, the proportion is less than 11 cents. Those who contribute, should have proportionate control in the distribution. Under the old Constitution, they have this and more. If they pay 14 cents, they abstract more than 16, and hence the justice and necessity of a change. It is true that the vices of the community will influence the ratio of representation; but as Billiard Tables are found only in Eastern counties, the objection might be urged with more force by others than the gentleman from Greene.

In conclusion, Mr. S. said, he was willing to accept the compromise tendered by the Legislature and sanctioned by the people, if the duties of this Convention, should be justly and wisely performed. It was the interest of both sections of the State that this should be done, and thus terminate forever a bootless controversy, which convulsed the Colonial Assembly of 1746, and has been the bane of legislation ever since.

He said, there was no one who deprecated more than himself, the idea of an unlimited Convention. But he assured gentlemen, that if, by any arrangements of larger counties in both sections of the State, or if, from any cause growing out of the peculiar principle upon which this Convention is constituted, injustice shall be done to any large portion of the community, the struggles in which we are involved, will not terminate with the existence of this body. The general sense of injury, will impel the people, as one man, to rend asunder the cords which bind the body politic, and stand forth here, in unshorn might and majesty.

Mr. HARRINGTON supported his motion to reduce the Senate from 50 to 34. If 48 was sufficiently large for the Senate of the United States, he thought 34 would do very well for the Senate of North Carolina.

The question was put on the motion to strike out from the Resolution, fixing the number of which the Senate was proposed to consist, the word *fifty*, and negatived, without a division.

The question then came before the Committee for striking out the words *one hundred and twenty* from the Resolution prescribing the number of the House of Commons.

The PRESIDENT (Mr. Macon) rose and delivered his sentiments pretty much at large on the subject; but, from his distance from the Reporter, and owing to the low tone of voice in which he spoke, he was very imperfectly heard. In referring to the compromise which it is understood was made by members from the Eastern and Western parts of the State at the Session of the

Legislature which passed the Act calling the Convention, he expressed his disapprobation of all compromises and concealments. He disapproved of any plan of Internal Improvements in which the Government was to take any part. All improvements of this kind, he said, ought to be the work of individuals, as they could always have it done at a cheaper rate than Government. In noticing a remark which had fallen from some member, derogatory to the character of this State, he said, for his part, he had never seen a State in which he had rather live than in North-Carolina, nor any, where the people were in general more happy. There might not be so many two and four-horse carriages amongst them, but there were plenty of good horses. Nor so many splendid houses; but the people generally had comfortable dwellings and good plantations. The term Farmer, he said, was seldom heard in North Carolina, and he was glad of it, as it always indicated to him a state of tenantry—he preferred the term *Planter*, which conveyed to his mind more of independency and plenty.

Mr. M. did not approve of the proposed plan of amending the Constitution, and read a Resolution which he said he wrote at home on the subject, but in so low a tone that we could not distinctly hear it. We believe it proposed to refer the whole subject to Committees, to be appointed in each county by the next General Assembly. We presume he is opposed to biennial sessions of the Legislature, as he quoted the following maxim from Mr. Jefferson: "Where annual elections end, tyranny begins."

In the course of his remarks, Mr. M. observed, that he believed all changes of Government were from better to worse.

Mr. WELLBORN said, the question before the Committee was, on striking out the words *one hundred and twenty*, for the purpose of inserting *one hundred*. He trusted this motion would not be agreed to; the word *fifty* having been retained in the proposition fixing the number of members for the Senate, it would be proper to confirm the number of one hundred and twenty, reported for the number of members in the House of Commons. These numbers were the highest prescribed in the Act of Assembly passed at the last session, which were fixed upon by way of compromise between the Eastern and Western members. The numbers were not thought sufficiently favorable to the West, but it was all that the Eastern members were willing to accede to, and was accepted by the West. This number of one hundred and twenty for the House of Commons, he believed, would suit both the Eastern and Western members better than any other. He hoped, therefore, it would be agreed to.

Mr. DANIEL wished the Committee to rise and report progress, in order that the Convention might order to be printed certain calculations which had been stated to the Committee, as to the effect which 120, 100, and some other number for the House of Commons, would have upon the several counties.

This was objected to by several members as unnecessary, and calculated to protract the decision of the question; that every member would make his own calculations, and vote accordingly.

Mr. D. after some other remarks on the subject, withdrew his proposition.

Mr. DOBSON said, he came into the Convention, in order to unite with the members from all parts of the State, to carry into effect, in good faith, the objects prescribed in the Act of last session. As it had been determined to have 50 members in the Senate, which was the utmost limit of the Act, he was in favor of voting for 120 in the House of Commons. Had the Senate been fixed at 34, he should have been in favor of 90 in the House of Commons, though he would have preferred 40 members in the Senate, and about 110 in the House of Commons. As these corresponding numbers between the two Houses were those which had been fixed upon by the parties who were instrumental in passing the law under which the Convention sat, he hoped the numbers would be agreed upon without opposition.

Mr. SPEIGHT advocated at some some length his motion for striking out the words *one hundred and twenty*, for the purpose of inserting *one hundred*, and endeavored to shew, from calculations which he adduced, that 100 members for the House of Commons would be a more suitable number than 120, and that he felt himself at liberty to propose any number of members for that House within the limits of the Act. It had been said, that unless the Convention would agree to fix the number of 120 members for the House of Commons, 50 having been agreed upon for the Senate, the West would not accept of the Constitution. He took this occasion of stating, once for all, that no threat of this kind would prevent him from performing what he believed to be his duty. He would take the consequences of his course, be what they may.

Mr. S. said he would have agreed with the gentleman from Surry, (Mr. Dobson,) if the Convention were now about to form a new Constitution; but it ought to be recollected that we are about to amend a Constitution which has fixed the habits of the people, and that these feelings ought to be consulted in every step that is taken. If 120 was fixed as the number of the House of Commons, he could enumerate upwards of twenty counties that would each be deprived of a member. This was not all. They would have no Representative in the Senate.

Mr. S. observed, that it had been remarked by the gentleman from Buncombe, in the view which he had taken of the manner in which many of the Governments of the States are formed, that their Senates consist of a smaller number of members than that fixed upon by this body for our Senate in future. Does not the gentleman know that most of these Senates are not like our Legislature, but merely exercise revisory powers, and are Judi-

cial Tribunals in the last resort. There is not, therefore, the same necessity that exists with us for a larger number. Our form of government differs from most of the governments north of the Potomac. In the North, they have small Senates and large Houses of Representatives. In the South, the number of the Senate is much larger, and possess all the legislative powers of the other House.

Some remarks had been made in relation to the present degraded condition of North Carolina, which had been very properly noticed by the venerable President of the Convention. He asked, in what respect had the State been degraded? He had always felt proud, whether at home or abroad, of being called a North Carolinian—here he wished to live, and here to breathe his last. Look at our Judiciary, at our Laws, at our University, which stands on a footing equal to any other Institution in our sister States. He could see no reason, therefore, why any gentleman, representing the interests of North Carolina, should thus speak of her. He looked on such representations with disgust.

The gentleman from Wilkes had spoken of the great emigrations which take place from this State. If he was correctly informed, they are equally great from South Carolina. Mr. S. said, he could tell the gentleman what caused these great emigrations. It was the sales of the public lands which produced them. And the gentleman and his friends may make what internal improvements they please in the State, they will have no effect in stopping emigration while the land sales continue.

With respect to Internal Improvements, no individual was more desirous of encouraging judicious improvements than himself, but he was against engaging in any large and extravagant scheme for this purpose, by the Government. It was impossible that this State could vie with the State of New-York in improvements. Nature has thrown obstacles on our sea-coast that cannot be overcome. It is true, we have a good harbor at Beaufort; but to make a Rail-road from thence to the mountains, would be incurring an expense which could never be repaid by the intercourse between these distant portions of the country. There might, in the course of time, be large quantities of produce and goods of different kinds carried on the road; but there would be but few passengers, and it is well known, that without these, no rail-road can be sustained.

Nor did he think that the proposed amendments to the Constitution would be the means of effecting the Internal Improvements which gentlemen seem to expect. He could tell them what had principally prevented improvements from being successfully carried on in this State. We had constantly attempted to do too much.

On this ground it was, that he opposed the system. He was well aware, that there was not only an Eastern and Western

interest in the Legislature, but there was a Roanoke, a Cape Fear, and a Neuse interest, so that whenever any public improvement was proposed in one section of the State, it could not be carried without consenting to introduce projects in other parts. It was this species of log rolling that had prevented any thing from being effectually done to improve the State.

Mr. S. concluded his remarks with calculations in justification of the number which he proposed for the future House of Commons.

Mr. SWAIN was perfectly aware that some of the Senates in the Northern States exercised a Judicial as well as a Legislative power; but he could see no reason why, on this account, their bodies should be less numerous than others who had not that power.

He noticed the inconsistency of the argument of the gentleman from Greene, who had said that he was in favor of fifty, the largest number proposed for the Senate, because it came nearest to the present number of that body; but when the number of the House of Commons came to be fixed, he was opposed to 120 members (the largest number proposed) in that House, though that of course came nearest to the present number of that body.

The gentleman also complained that if the number of the House was fixed at 120, that many of the counties would be deprived of one member; but he ought to have known that if 110 was adopted as the number, there would be still more in that situation; and if 100 was fixed upon, the number would be further increased.

Mr. S. went into a variety of calculations to show the propriety of fixing the number of the House of Commons at 120, in preference to any other number, as the number of the Senate had been already fixed at 50. To adopt any smaller number for the House, would destroy the proportion that had heretofore been agreed upon by gentlemen in a spirit of compromise, and which ought not to be invaded. If gentlemen wished to defeat the purposes of the friends of the Convention, he mentioned several ways in which they might do it. But he trusted, that if any such purpose existed, there would be found a decided majority of the Convention in favor of carrying into effect, in good faith, the provisions of the Act of Assembly.

Mr. SPEIGHT replied, by entering into a justification of the course he had taken. Said he had no wish to disturb any compromise that had been entered into; but that he should not be driven from any measure which he deemed proper to take in behalf of his constituents, by any threats as to the consequences that might ensue.

A motion that the Committee rise and report progress, being made and carried, the Convention adjourned till to-morrow.

TUESDAY, JUNE 16, 1835.

After Prayer by the Rev. Mr. Jamieson,

Mr. SPAIGHT, of Craven, from the Committee appointed to draw up an Article amendatory of the Constitution, in relation to the abrogation of the right of free persons of color to vote, reported the following, which was read the first time :

“That no free negro, free mulatto, or free person of mixed blood, descended from negro ancestors to the fourth generation inclusive, (though one ancestor of each generation may have been a white person,) shall vote for members of the Senate or House of Commons.”

The Convention having resolved itself into a Committee of the Whole, Mr. SHOBER in the Chair, on the unfinished business of yesterday, the motion pending being to strike out 120, as the number which is to constitute the House of Commons,

Mr. WILSON, of Perquimons, said, there was one great difficulty to be encountered in the adjustment of this question of Representation, which might as well be met at once. It could not be got round, and he saw no benefit which was to result from delaying an examination of it. This difficulty is what to do with the surplus numbers, after apportioning one to each county.—So far as the arranging of 65 members goes, the task is simple enough ; but the Herculean labor is to appropriate and locate the residue. The phraseology of the Act of Assembly is different as respects its application to the Senate and House of Commons. In the Senate, the excess of taxation is to be carried to the adjoining counties to make a convenient district ; in the House of Commons, the excess is to be appropriated to counties or districts, or both. On no question can greater difficulties arise, than how to distribute this excess. Various *projets* have been originated, and doubtless have been extensively discussed, out of doors, as well as in this body ; but the truth is, no plan can be started which is free of difficulty. The object of every one was to produce the best system of legislation for North Carolina. We should therefore examine well, and take that plan most congenial to the habits of our people, and which, in its operation, would work the least injustice.

A good deal had been said in this discussion, about the symmetry of the proposed Article of amendment. He begged leave to state one fact. When the Bill which was the foundation of this Convention, was before the Legislature last session, it came from the House of Commons to the Senate, with a range of numbers from 90 to 107. As is now customary, the members were in the habit of discussing these matters in their rooms.—To the surprise of the Eastern gentlemen, next morning, they found for the first time, that there was a defection in their ranks. The gentlemen who went over, did so on condition that the num-

ber 120 should be inserted as the *maximum*, and 90 as the *minimum*. This number, therefore, did not come from an original advocate of the bill, but from an opponent. He had yet to learn from what order of Architecture gentlemen derived their notions of symmetry, who could perceive such beautiful proportion between 50 and 120. If, indeed, it had been intended by the Legislature that the members of the Convention were to be bound to certain numbers, they would have said, in express language, if the number 50 be taken as the basis of the Senate, then 120 *shall* be taken for the House of Commons. He would ask, then, where was the obligation to conform to these numbers, when it was expressly stated, that the power of agreeing upon any particular numbers, was discretionary? There was a direct variance between the words of the Act of Assembly and the position now assumed; and, according to his construction of that instrument, if any other number could be agreed on, calculated, in the estimation of members, to produce a greater amount of benefit, they were at perfect liberty to adopt it.

The antiquity of this sectional bickering had been enquired into, for what reason he was at a loss to perceive. We had been told that the sectional strife originated in 1746, and had continued ever since. Why, then, was the Convention called in 1776?—Was it not to settle the grievances complained of in 1746? Why, then, was this *ancient* matter introduced?

We have been told, sir, again and again, that the true form of government is representation of property in the Senate, and of persons in the House of Commons. Had this arrangement prevailed hitherto, under our old Constitution? If not, what is to be gained now by changing the system? He had heard of a proposition on the subject, which had been mentioned, plausible on the face of it, but the direct effect of which would be to strengthen the strong and diminish the energies of the weak. It was in substance this: Taking it for granted that 120 would be adopted for the House of Commons, each county will be entitled, of course, to one member, and when any county has an excess, it is to be transferred to any adjoining county which has a *larger* surplus, to entitle it, if practicable, to an additional member. For instance: the counties of Orange and Rockingham, if 6,000 of federal numbers be agreed upon as the ratio, would be entitled, the first to three members with a surplus of 3,000, and the last to two members, with an excess of 2,500. But, in point of practice, how would this rule work? Why, Orange, having the largest excess, would take the surplus of Rockingham, and thus be entitled to four members, whilst Rockingham would have but two. Again: in the Edenton District, composed of the counties of Camden, Pasquotank, Currituck, Chowan, Gates and Perquimons, a similar result is produced. Camden has a surplus of 700; Pasquotank, 1,500; Currituck, 900; Chowan, 300; Gates, 600; Per-

quimons, 400. Here the effect would be to give Pasquotank *two* members—thus allowing her the whole weight of all the excesses of the other counties—so that *one* individual in Pasquotank will have nearly *twice* the weight in the Legislature that one in Gates or Chowan has; he would say nothing of the small county of Perquimons, which he represented. If he understood the nature of this controversy between the East and West correctly, the constant burthen of their song had been, that population was not equally represented—that Pasquotank had twice as much weight as Burke, &c. Now, was this a grievance, or was it not? If it was a grievance then, is it not one now? What has transpired since January last, to diminish its objectionable features, or alter the principle so vehemently inveighed against by Western gentlemen? He for one, as a citizen of North-Carolina, would say, that he was unwilling to deprive any portion of free men of the right of representation, whether they were in the East or the West, the North or the South. If the great object of the West was to remedy this grievance, what have we gained by agitating the elements, if the same inequality is still to exist—not in the East or the West, but in every portion of the State? Will not such injustice excite the indignation of that portion of the community which is oppressed? Pasquotank, because possessing a little greater extent of territory, is to be a birth-right county, and is to be favored with a monopoly. Is it not within the discretion of this body, so to frame its amendments as to prevent collision and heart-burning? If this plan was adopted, as he remarked before, it would give strength to the strong, power to the mighty, and would shear the weak.

Much had been said in this body, and much would be said in the next Legislature, about the defects of the old system of representation. If a stranger had been present yesterday, and listened to the discussion which took place, he would have taken up the idea that North-Carolina was the poorest, most degraded State in the Union. The gentleman from Wilkes, (Mr. Wellborn,) it seems, sometimes goes abroad—perhaps to the great State of Tennessee—the State where such evidences of public improvements are to be seen—fine roads and flourishing canals—and when he gets across the line, he is almost ashamed to tell where he came from. He had never himself been to Tennessee—never enjoyed that exquisite pleasure—but he had been to Virginia; and if that State is in a more thriving condition than North Carolina, the evidences of it are not to be discovered. Range through any of the adjoining States, and if gentlemen are to be believed, North Carolina possesses as much Commerce, and the general face of the country is as prosperous as that of her neighbors. In some favored sections of Virginia, perhaps, she excels North Carolina, but take the whole face of the State, and the superiority is ours. If North Carolina had declined, however, it was perfectly obvious

that it did not spring from any defects in our system of government, but resulted from our local situation. We have no seaport to concentrate our wealth and enterprize—no large city to give tone to the State. Much has been said here about our Inlets; but no one can believe, that if we had the best inlet in the world, that we could, in the present state of things, build up a large Commercial town. No, sir, the very approach to our coast, is attended with hazard.

In answer to the gentleman from Wilkes, who thought that if a rail-road were constructed from the sea-board to the West, that the mountains would be converted into rich fields and blooming gardens, he would tell him, that he would be sorely disappointed in his calculations. But he was really obliged to the gentleman for showing his hand. It turns out, now, that the West want the power in their hands, not because Lincoln, Orange, &c. were unequally represented in the Legislature, but because they want to construct rail-roads, canals, &c. to give them an outlet to the ocean. But what benefit would accrue to the West, if they had an outlet? Very little, sir; for nine-tenths of their land is exhausted, and not worth cultivation, contrasted with hundreds and thousands of acres annually brought into market in the southwestern States. None complain so much of the want of a market, he believed, as those who have little or nothing to carry to it. Gain is the principle which prompts men to action; and so long as these immense bodies of land are kept in the market, it is impossible to check the rapid tide of emigration which is depopulating the State.

He, too, had a plan for settling this question, though it did not originate with him. Appropriate, as the Act requires, one member to each county; then suppose we adopt 100 as the number of members in the House of Commons, it will be found that the ratio is between 5 and 6,000, which will give to the East 46 members, and to the West 54 members. Under this plan, there were but three Eastern counties which would be entitled to two members, viz: Wake, Granville and Halifax. The advantage of the plan is, that, after having appropriated the members agreeably to the ratio agreed on, the several excesses are to be thrown into a common mass, and the State is to be divided into twenty districts, each of which is to send a member. Of these districts, twelve will be in the West, and eight in the East; so that the West will have its fair proportion, whilst the East will get that to which it is entitled. In this way, too, we shall get rid of the rivalry, inequality, jealousy and heart burnings, which will otherwise ensue. He had heard it said, though he did not subscribe to the doctrine, that the farther the representative was removed from the people, the better he serves their true interests. These districts, therefore, will afford members of a much higher grade of talent than those usually sent.

Mr. Wilson concluded by stating, that his object had been to show that the same inequality which is now complained of, would still continue to exist; and he expressed his determination never to vote for a system, the inevitable effect of which would be, to array the smaller counties against the larger ones.

Mr. BRYAN remarked, that it was with much reluctance that he rose to obtrude himself upon the attention of the Committee; but matters had been introduced into this discussion, in which his constituents were intimately and deeply concerned, and he therefore felt himself bound to make a few remarks. In doing so, he should be brief, and with a single exception, should confine himself to the immediate subject under consideration.

Mr. B. said, he had been sent here from an extreme Eastern county, whose representatives in the Legislature had generally voted with the West. Whether in so doing they had truly represented the views and feelings of the people of Carteret, it was not for him to say—that was the adoption of a course of conduct, for the wilfully erroneous exercise of which, they were responsible to the people in their sovereign capacity. Neither did it become him to question the purity of their motives, for he believed they were influenced by feelings of patriotism, and a desire to promote the general welfare. It was sufficient that they had materially aided the West in bringing about this compromise.—Whether the great body of his constituents were in favor of a Reform of the Constitution, or not, was a very different question—he believed that they were decidedly opposed to it—but a majority of those who voted in the State, had decided for a Convention, and they had acquiesced in the propriety of this Constitutional expression of opinion.

He wished to say a few words in regard to our Coast, which had been so frequently mentioned in this discussion, and about which the Convention seemed to be in the possession of so little information. The venerable gentleman from Warren (Mr. Macon) had expressed the opinion, that in consequence of Cape Hatteras, Cape Lookout, and the general character of our Seaboard, it was dangerous to approach our Coast, and that we had no Port whence our agricultural productions could be shipped immediately to foreign countries, and that we had no hope from that source. Mr. B. said, the very great respect and authority which opinions emanating from so high a source, carried with them throughout the State, compelled him to hazard a correction of the errors into which that gentleman had been manifestly and unintentionally led. He resided at Beaufort, a town which, for the salubrity of its atmosphere, the beauty of its harbor, and the excellence of its inlet, was not surpassed by any south of the Chesapeake. Old Topsail Inlet, which is the means of access from the Ocean to the harbor, affords an uniform depth of water of from twenty to twenty-two and a half feet, and opens

to merchantmen of the largest class, a bay of sufficient capacity and depth, where one thousand ships heavily laden, may be safely anchored and handsomely landlocked, in perfect security from the influence of storms. Superadded to this, remarked Mr. B. of so much importance was this port deemed by the General Government, during the last war, in consequence of its easy access, and the perfect security which it afforded to our privateers, mercantile marine, &c. that after that event, its attention was turned to its improvement and fortification; and that even now, a Fort of the second class, upon which had been expended upwards of half a million of dollars, commands the entrance of the harbor, that will be enabled to bring one hundred pieces of artillery to bear upon any blockading squadron that may be sent against it. Thus had nature and art both combined to give it importance and security. There is no county in the State whose resources are so little known, and whose importance is so little appreciated, as Carteret. Its reputation of being poor, arose not from a want of internal resources, but from the fact, that the ocean, its rivers, and the sounds, would, with the exercise of but little industry, yield a bountiful supply of the delicacies and luxuries of life, in consequence of which, there was not that persevering labor necessary for the acquisition of great wealth.—Carteret possessed within its confines a body of land not surpassed in fertility by any in this Union. He had heard this from the United States' Engineers, from distinguished members on this floor, and from substantial farmers at home. This county, in our Revolutionary struggle, contributed much aid and support in the achievement of our Independence, and during our late war, furnished many brave and gallant seamen. A late survey demonstrated the practicability of uniting the waters of Neuse river with Beaufort Harbor—an event which would make the Port of Beaufort equal to any in the Southern States. If then, the resources of the West and East are so great as had been described on this floor, they were not hermetically sealed within the narrow limits of North Carolina—from this port, they could procure access to all parts of the world. He appealed to the gentleman from Buncombe, (Gov. Swain) who had recently visited Beaufort, if in all his travels, he had ever before seen a harbor of such capacity, so beautifully landlocked, and so secure from the effects of storms. These remarks, he knew, were beside the question, but as they had been lugged into this debate, and under a misconception, too, of the true situation of his own county and town, he felt it a duty he owed to his constituents, to impart correct information on the subject, and that in case the sceptre of power should depart from the East, and go to the West, his brethren in that quarter might know to what point in our State to carry into operation their enlarged and liberal views of policy with regard to Internal Improvements.

With these preliminary remarks, he would turn his attention to the subject under debate. He would premise that he knew nothing of those sectional differences, of which so much had been said, and was ignorant where the line of demarkation between the East and the West commenced—he did not know where the Rubicon run. He regretted that it had been introduced into this Convention, like an apple of discord, to put to flight our unanimity of council—he would banish it forever, and meet on this floor as brethren, and would cheerfully join with the West in the adoption of such measures as might tend to elevate the character of the State. He proffered his aid—his honest aid—to do this, whether the proposition came from the East or the West. He dissented from the proposition as laid down by the venerable President (Mr. Macon) that there was no necessity for concession of opinion, and that thereby a part of that which was correct might be lost; this in the abstract, was true, but all Government was the offspring of compromise and concession. A spirit of concession was indispensable here, and although sometimes there might be a concession of right, unfortunately, in matters of opinion, there was no tribunal to determine between right and wrong. If respectable authority was to be relied on, our present State Constitution, as well as that of the Federal Government, were obtained by concession and compromise. If we refer to the origin of all governments—to a state of nature—we shall behold the strong yielding up a portion of his power and natural rights—submitting to be bound by the same ligaments, and acknowledging the same authority with the weak, in order that he may enjoy the beneficial influences of society, and the wholesome exercise of salutary and happy laws. We must either resolve society into its original elements, and regulate every thing by brute force, or we must make concession.—Mr. B. alluded to the plan under consideration as one of compromise. Each county, whatever its population might be, was to have a member, although the number of its inhabitants might not equal the ratio agreed upon. He totally disagreed with the gentleman last up, in his notion of taking the excess or portion of the excess, of a large county, and giving it to the county deficient in number, in order to make it amount to the agreed number—this construction was a violation of the Act. He believed that the future tranquility of the State depended on the harmonious action of this body. The basis mentioned would not, he was certain, be satisfactory. The West might, and the East would object to it. “Like the unsanctified ministrations of the idolatrous sons of Aaron,” it would light up the torch of discord throughout the State. Concession, therefore, must take place on every side, if we are anxious to bring this much vexed question to a peaceful and happy termination. The basis of representation, as laid down in the Act, is taxation in the formation

of the Senate, and federal numbers in the Commons. The tabular statements with which we have been supplied by the authority of this Convention, clearly demonstrate that the East will have the power in the Senate—her rich lands, her slaves, her store-tax, &c. are sources of revenue to the State, which swell the amount of taxation paid in by her, to such an excess above that of the West, as will entitle her to a majority of four in that body, if the Senatorial branch is constituted of fifty members.

A greater difficulty, however, occurs in the formation of the House of Commons. Any number between ninety and one hundred and twenty, the two extremes, as specified in the Act, will give the preponderance to the West, so that the East will have at last to depend upon the magnanimity of the West—a magnanimity which he had not the right, nor did he feel disposed to question. The Act of Assembly was the chart by which they had to sail, and as he had just remarked, adopt what number they chose, within the range of their powers, and the West would have a majority. He read two letters to the Convention, written by Gov. Johnston, during the sitting of the Convention of 1776, from the deliberations of which, Mr. B. said, he was excluded, notwithstanding his acknowledged worth and talents, on account of his aristocratic notions. [These letters speak in terms not very complimentary of the general character of that Convention.] This Convention, he said, was composed of very different materials from that described in the letters he had just read. The members of this body had been selected by the unsolicited suffrages of their constituents, without the slightest regard to their political opinions—they had assembled with no ungenerous feelings, and presented an array of talent surpassing any previous assemblage ever convened in North Carolina.—He felt no disposition to lash the Ocean into a tempest, “to waft a feather or to drown a fly,” to excite one portion of the community against the other, to bring about results which he deprecated from the bottom of his heart. If the unpleasant feelings which these differences engendered, were to terminate here, it would not be so bad; but they would be carried home by each member, infused into the people, and felt at the polls. He did not say this with a view to menace the West, or to hold out improper inducements to the East; but simply because he wanted that ideal sectional line obliterated, which as effectually destroyed a community of feeling between the East and the West, as if a Chinese wall separated them. There should be no concealment of our views and policy in regard to this important matter, but we should disclose them with the spirit of frankness and candor. He had given to the subject of representation in the Commons, a strict and diligent investigation, and he was sorry to find, that if any number between ninety and one hundred and twenty were assumed as the basis of representation, his own

county (Carteret) could in no event be entitled to more than one representative, its federal population amounting only to five thousand nine hundred and fifty-nine. If the number ninety is assumed, it will require a federal population of six thousand six hundred and thirteen, to entitle a county to a representative; if the number one hundred should be adopted, the ratio will be seven thousand five hundred and sixty-seven, to give to a county a representative; and if the Convention should resolve that the House of Commons should be constituted of one hundred and twenty members, that number will require a federal population of five thousand three hundred and ninety-nine, to entitle a county to a representative in that body, and this latter number will leave an excess in the county of Carteret, after deducting one representative, of five hundred and sixty votes. This excess would give to his county a right to vote for a district member, and he thought, under these circumstances, if he did not compromise the great interests of the East, that he should give his preference for that number. This he did fearless of the consequences, as he knew that he should be sustained therein by his constituents.

Mr. B. said he had given his serious attention to a calculation made by a distinguished member of this House, (Mr. Gaston,) which had assumed as its basis, the numbers 50 and 120. [Here Mr. B. went into a long and detailed statement and examination of the plan, shewing its practical operation upon the East and West, and the correctness of the data upon which it was founded.] The prudent caution and remarkable correctness of that gentleman, in arriving at conclusions and satisfying his mind as to the truth of his results, before he gives to them the sanction and authority of his opinions and character, will weigh much with this House. This calculation will give to the West a majority of from six to eight, and if from that latter number we deduct the majority of four which the East will have in the Senate, the result will be, that upon joint ballot, the West will have a majority of four. He was for producing an equalization of power, and should give to this plan his hearty concurrence, if the West would agree to give to the East a Borough member from each of the towns of Edenton, Newbern and Wilmington. This adjustment of the political scales, would leave the balance of power in a fluctuating condition, and they might be caused to preponderate on the one side or the other, as the high considerations of honor, honesty and integrity might dictate. He said that there was another branch of the proposition which is said to emanate from that distinguished gentleman, to which, as the representative of a small county, he must beg, with due deference, to dissent. He could not consent to take the excesses of federal population from those counties containing the smallest excesses, and give them to those counties con-

taining the largest excesses, and thereby enable the largest counties to send to the General Assembly the representatives of those excesses. This would work gross and manifest prejudice to the small counties, and he believed was a violation of the letter and spirit of the Act. [Here Mr. B. commented at large upon the construction to be given to the Act.] He would suggest to the Committee a plan, which seemed to him to obviate these difficulties and inequalities. Let the gross amount of all the excesses to which each county is entitled, after deducting the number of representatives which the established data may give them, be ascertained, and then divide the State into districts, composed of those counties that contain excesses, and let each county vote for the district member or members. His own county, and every small county, would not thereby lose the power and influence which its excess would thus entitle it to. A difficulty of precisely the same nature and character, was suggested by Mr. Jefferson, in his Notes on Virginia, as to the distribution of this inequality of power, and much of that difficulty was removed by a plan formed by Judge Tucker, and to which he begged leave to call the attention of the Committee. [Here Mr. B. read from Tucker's Blackstone, and commented at length upon the system of the distribution of powers, arising from the excess of population above the ratio contained in counties.] Mr. B. remarked, that the same difficulties arose in the formation of the Constitution of the United States, as to the basis of representation in the House of Representatives—there were small and large States—the former jealous of the latter, and the latter by no means disposed that the small States should be permitted to enjoy an equality of power. The effect of this produced a compromise, and resulted in the distribution of power, as laid down in the second and third articles of the Constitution, which Mr. B. explained and commented on. He remarked, that here, if we shall ever agree upon an amended Constitution under this Act, we must make a compromise. The East is compelled, under this Act, to surrender her power upon any apportionment of representation—the West contains a much larger federal population, and in yielding to this necessity, he was not disposed to produce an unnecessary excitement, or to array one portion of the House against the other; for

“Ours are the plans of fair delightful peace,
Unwarped by party rage, to live like brothers.”

He should pursue with firmness that course and policy which he conscientiously believed would, so far as the Act gave him power, and he was bound to obey that by his oath, promote the honor and welfare of his constituents. He disdained to be governed by the little low prejudices and animosities which were the offspring of ignorance and stupidity. He thanked the Committee for their patient attention, and in conclusion, hoped that we should all go

hand and heart for "our country, our whole country, and nothing but our country."

Mr. WELLBORN thought if 120 were agreed upon as the number of the House of Commons, it would make but little difference in a joint ballot of both Houses. The Governor, it was probable, the Convention would decide, shall be elected by the people; and the General Assembly may pass an Act for choosing Senators for the United States, by a concurrent vote of the Houses, as had been suggested by the gentleman from Buncombe, and no serious contest could reasonably be expected for the other officers elected by joint vote of the Legislature. The West had not complained on this score. There was no possibility of making the Eastern and Western interests precisely equal, and if it were ever effected, it would be liable to constant change. Great liberality and spirit of concession had governed the agreement made at the last Legislature, and he trusted the same spirit would prevail on the present occasion in carrying it into effect.

Mr. DANIEL said, he thought 120 too large a number to fix upon for the House of Commons; but 100 was too small to do justice to the West. He was of opinion, that 110 would be a better number than either. He should therefore vote in favor of striking out 120, in order that the blank might be thus filled, if a majority were with him in opinion.

Mr. SKINNER observed, that he considered this body as having met under the Act of last Session of the General Assembly, which he considered in the light of a Power of Attorney, to do certain acts. These acts he found enumerated in the 13th section of the Act, which he understood had been previously settled, by way of compromise between the Eastern and Western members of Assembly. He thought it his duty, therefore, to look into this Power of Attorney, in order to discover the duties which he had to perform. A part of these he found to be peremptory, and a part discretionary. Amongst the former, he was directed to frame and devise amendments to the Constitution, so as to reduce the number of members in the Senate to not less than 34, nor more than 50, to be elected by districts, to be laid off at convenient and prescribed periods, &c. and to reduce the number of members in the House of Commons, to not less than ninety, nor more than one hundred and twenty, exclusive of Borough members, which the Convention shall have the discretion to exclude, in whole or in part, to be elected by counties or districts, or both, according to their federal population. It appeared clear, therefore, that the Convention is at liberty to fix the number of Senators at any number between 34 and 50, and the House of Commons at any number between 90 and 120. The Convention having agreed to fix the number of the Senate at 50, the largest number prescribed, he thought it would be right, and would carry out the agreement in the way intended, to fix the number of the House of

Commons at one hundred and twenty, the highest number prescribed for that body.

Mr. S. said, he was himself satisfied with the old Constitution, under which he had drawn his first breath, and would be willing to draw his last. And though he was sent here by his constituents to carry into effect the Act of last Session, he should be willing to alter the present Constitution as little as possible, consistent with his duty, and the oath which he had taken.

Mr. SEAWELL considered the Act of the last Session as the Power of Attorney under which he was called to act; but said, he took a somewhat different view of it from that taken by other gentlemen. The 13th section of this Act not only ascertained the powers of this body, but also imposed upon it obligations. This section commences with directing certain propositions to be submitted to the people, on which they were to vote, "Convention," or "No Convention;" and when a quorum of Delegates shall assemble, they are directed to frame and devise amendments to the Constitution, &c. and that the Convention may, in their discretion, devise and propose certain other amendments. That is, they are directed to amend the Constitution in certain particulars, and to determine whether other prescribed alterations shall be made or not, according to their discretion.

Mr. S. observed, that he had sworn not to evade or disregard the duties enjoined by this Act, which he should not have thought of doing, whether he had taken the oath or not. He should perform his duty to the best of his judgment. The amendments had been recommended by a large majority of the people, and they ought therefore to be duly considered, and acted upon understandingly. He had heard much said on the subject of calculations. For his part, he had made none, and he did not pay much attention to such as had been made by others. The Power of Attorney was explicit in saying, that the number of the members of the Senate shall not be less than 34, nor more than 50—nor the House of Commons less than 90, nor more than 120. The *minimum* and *maximum* numbers are given, and the Convention is left to decide between them. It has already decided on the highest number for the Senate, and having done so, he should be in favor of adopting the largest number for the House of Commons.

He had heard much said on the subject of Eastern and Western interests, which was nothing new to him or to others who had been long intimate with the Legislative business of this State.—He had heard something, also, on the subject of compromise, to which he had paid but little respect.

Mr. S. took a brief view of the manner in which our Government was originally formed on principle, without any view to sectional interests, which afterwards grew up by degrees. Reference had been made to the practice of other States. He did not think we had any thing to do with the practice of Virginia, Geor-

gia, or any other State. It was our business to amend the Constitution, as directed by Act of Assembly, and according to our own best judgment.

Mr. SKINNER was glad to find that the gentleman from Wake agreed with him as to the construction of the Act of Assembly, under which the Convention was called to act.

Mr. SEAWELL rose to state, that his construction of the Act differed in some respects from that of the gentleman from Chowan, but the Reporter did not understand precisely in what particulars.

Mr. JACOBS stated, that as his constituents were opposed to the calling of a Convention to amend the Constitution, he was desirous of making as few amendments to the present Constitution as was practicable, acting in good faith under the Act, prescribing his duty. He therefore felt himself bound to show his dissent in the first instance, when the Delegation assembled, by recording his vote against organizing the Convention; this was his sole and only motive for voting on that occasion in the negative. He felt himself thus bound to explain his course, as allusion had been indirectly made to it. He was glad to hear the views of gentlemen from different sections of the State, on the several propositions submitted to the consideration of the Convention, and would give his vote in favor of such measures, in conformity to what he considered to be his duty, as he believed would prove beneficial to the country.

On the present question, said Mr. J. believing that 90 or 100 would be a better number, more equally balancing the two great sectional parties upon joint ballot, he should vote for them. The East thus having a majority in the Senate, and the West in the House of Commons, neither could complain; and union and harmony would be much more apt to be produced, than if the balance of power was thrown into either scale. He should vote for striking out 120, with the hope of filling the blank with one of the numbers he had mentioned.

The Committee rose, reported progress, and obtained leave to sit again.

After the Committee rose, Mr. WILSON, of Perquimons, submitted the following Resolution:

Resolved, That a Committee of twelve, two of whom to be selected from each Judicial district, be appointed to report what ratio of Federal Population will give to the House of Commons 90 members, 100 members, 110 members, and 120 members; and that said Committee report what disposition is to be made of the "residue" of Federal Population, after allowing one member to each county; and that said Committee be instructed, after allowing one member to each county, to appropriate the "residue" to "counties or districts, or both, according to Federal Population," according to the several numbers 90, 100, 110, 120.

Mr. WILSON said, he foresaw from the first, that there would be various plans brought forward on this subject, and much difficulty in fixing upon any one that would satisfy members from different sections of the State; and whatever might be fixed upon for the House of Commons, there would exist much difference of opinion as to the manner in which the surplus numbers in the different counties should be disposed of. It was in order to obtain information on this subject, that he offered the above Resolution.

The question being put on now taking up this Resolution, it was negatived, 55 members voting for it; and the Convention then adjourned.

WEDNESDAY, JUNE 17, 1835.

After Prayer by the Rev. Dr. McPheeters,

Mr. WILSON, of Perquimons, called up the Resolution which he laid on the table yesterday.

Mr. GILES was opposed to considering this Resolution. The first thing which the Convention is instructed by its constituents to do, is to fix the number of members in the Senate and House of Representatives. The number for the Senate is already fixed, and the Committee of the Whole ought to go on and fix the number of the House of Commons. Until this is done, the Convention cannot proceed a step. Mr. G. saw no necessity for calling for the calculations contained in this Resolution. Every gentleman could make a calculation for himself. Gentlemen had been willing to fix the number of members to compose the Senate, without calculation; but when the number to compose the House of Commons is the question, they wish to stop the further proceedings of the Convention, until they can obtain certain calculations.

Mr. BRANCH was surprised that any opposition should be made to taking up this Resolution, which called for very important information, and which he had supposed would be acceptable to every member.

Mr. GASTON, of Craven, said, that from the remarks now made on the subject of this Resolution, by the gentleman from Halifax, he felt himself compelled to give the reasons which induced him yesterday to vote against taking up the motion of the gentleman from Perquimons, and which would induce him now to vote against taking it up. He agreed in opinion with the gentlemen from Perquimons and Halifax, that the Convention had important principles to settle. First, the number which the House of Commons shall be composed of; but he differed altogether in opinion from these gentlemen, that it was the province of a Select Committee to settle these principles. Whatever such a

Committee were to report, it would pass for nothing. It seemed to him, that this motion was altogether premature.

Mr. G. said it was with regret he felt it his duty to oppose this Resolution. It was a rule with him, never to oppose a call for information, if he could see any possible good that could arise from a motion of this kind.

Mr. WILSON, of Perquimons, did not expect the gentleman from Craven would have opposed this call for important information, and repeated the argument which he had before used in favor of its adoption.

Mr. SHOBER thought the required information, as to the best mode of disposing of the surplus numbers, could be as well obtained after the number of the House of Commons was fixed, as before.

Mr. SEAWELL said, that soon after the Convention entered upon business, this subject was introduced by the gentleman from Halifax, (Mr. Daniel,) who expressed his desire to obtain some calculations for the information of the Convention. It was then thought, calculations on the subject were desirable, and a Committee was appointed for the purpose of furnishing them.—The Committee had since reported, but had laid no calculations before the Convention. He wished to obtain the information, and hoped the motion might prevail.

Mr. FISHER said, there was no necessity for appointing a new Committee. The one already appointed, he had no doubt, was in possession of all the information that was necessary to throw light on the subject, which would be reported in due time. Indeed, he supposed every member had made his own calculations. The first thing to be attended to, was to determine of what number the House of Commons should consist. After that was done, every thing else would pass off smoothly. But if the Convention thought proper, they could discharge the present Committee from the further consideration of the subject, and appoint another.

Mr. SMITH, of Orange, said, the greatest objection that he had to the Resolution of the gentleman from Perquimons, was the great sacrifice of time which it would require to carry it into effect. He thought with the gentleman from Rowan, that most of the members had made their own calculations on the several numbers proposed for the House of Commons. He could therefore see no necessity for arresting our proceedings until other calculations are made. What, he asked, would be the effect?—A Committee would be raised. They must have time to sit. How many days would be necessary? He supposed a Report would not be made till near the close of the week. It would then have to be printed. So it will be sometime next week before the Convention can go into a Committee of the Whole on this subject.—The number of the members of the House of Commons, must be

fixed before any progress can be made in the great business of the Convention.

Mr. WILLIAMS, of Franklin, disliked the attempt that gentlemen make to stifle the obtaining of information. The gentleman from Orange is a great economist of time. Mr. W. thought nothing could be done without the information called for. There was a great diversity of opinion as to the manner in which the surplus numbers ought to be disposed of. He could see no reason why the enquiry should not be gone into.

Mr. GASTON, of Craven reminded the Convention, that the question was not on agreeing to the Resolution, but on taking it up. It was not therefore in order to go into the merits of the Resolution.

Mr. BRANCH observed, that when this subject was first brought before the Convention, it was said the preliminary question, in relation to the number of members which should compose the two Houses, should be first settled, and he consented to take that course. The subject was referred to a Committee of 26. This Committee has obtained information sufficient to satisfy them as to the working of the system. They are satisfied; but we are not content, and ask for information. They object to our having it. Gentlemen have ascertained the size of the building they are about to erect, and have secured to themselves comfortable apartments; but we want to know whether we are to occupy a garret or a cellar.

Mr. B. said, he had made up his own mind on the subject, which would not be changed by any information which he might receive; but he wished the information for the benefit of others.

Mr. GASTON, of Craven, explained, and justified the course which the Committee had taken.

Mr. MOREHEAD was always in favor of obtaining information, where there was any prospect of its being useful; but when he was convinced that no good could possibly arise from an enquiry, he could not vote for it. Every member in the Convention, he had no doubt, had made his own calculations on this subject, and it would only be a waste of time to appoint a Committee to do that which each member had the power of doing for himself.

The question was taken on considering the Resolution, and carried.

Mr. SMITH, of Orange, moved that when the question is taken on the Resolution, it be taken by Yeas and Nays; which was agreed to.

Mr. GASTON, of Craven, said, that this Resolution consists of two distinct parts; the first called for information as to the operation which fixing the number of the House of Commons at 90, 100, 110, and 120 members, would have upon different portions of the State; and the second part related to the manner of dispos-

ing of the surpluses of the several counties. He moved to amend the Resolution by striking out the latter part of it. This is a subject that a Select Committee is not competent to act upon.—It must be decided by the Convention itself.

Mr. HOGAN moved to postpone the consideration of this Resolution to the 4th of July next.

After a few remarks from Mr. COOPER against the motion, it was negatived.

The question was now on Mr. GASTON's amendment, which, after some few remarks, was put and carried; after which, Mr. WILSON moved that the remainder of the Resolution lie on the table, and it was laid on the table accordingly.

The Convention then resolved itself into a Committee of the Whole, Mr. SHOBER in the Chair, on the unfinished business of yesterday, being the consideration of the Article proposing 120 members for the House of Commons—the motion pending, being to strike out 120.

Mr. OUTLAW rose and remarked, if any apology were necessary for him, it would be found in the fact, that this was the first occasion on which he had troubled the Committee. He hoped, however, to afford a more substantial one, by strictly confining himself, in the few remarks which he intended to submit, to the merits of the question under debate, and by quitting when he was done. It was not his purpose to make any profession of the motives which governed him, for although gentlemen, by such a course, might deceive themselves, they would scarcely succeed in deceiving any body else.

Mr. O. said, he was not indifferent how power should be adjusted between the East and the West. He felt a deep interest in the proper settlement of this question—his constituents felt it also. He wanted effectual and substantial security, that those whom he represented would not be subjected to onerous and unequal taxation. He was content with the organization of the Senate, and would not imitate some gentlemen by entering into the discussion of abstract questions—it was idle to do so, for a higher power having prescribed the basis of representation, the discussion could lead to no possible practical result.

Before proceeding with his remarks, Mr. O. said, he must be permitted to say a word as to the extraordinary construction put upon the Act of Assembly, under which we are convened, by several able gentlemen. They contended that the members of this Convention were under a moral obligation, if they took the highest number in the Senate, to agree also to the highest in the House of Commons. He repeated, it was a most extraordinary construction, and could not be gathered from the words of the Act, either in express terms, or by any ordinary rule of inference. This Convention had not been directed to take any particular number between those mentioned in the Act, or to observe any

definite proportions; they had been selected for their intelligence, wisdom, and the confidence reposed in them, to arrange this matter, and the whole was purely a matter of discretion. The obligation resting upon them was to take those numbers which would most conduce to the public good. The gentleman from Chowan (Mr. Skinner) had said, that he looked at the Act itself to discover its intentions. That did not satisfy him; he would look a little further. Properly to understand any instrument, we must look to the construction which those who formed it, put upon it; and he appealed, with confidence, to the members of the last Legislature present, if they had any idea, when this Act was passed, that the delegates to this Convention would be bound to preserve its symmetry, as it was called.

The question, said Mr. O. is narrowed down to a small compass. What is the proper number of members for the Legislature of North Carolina? This is the true question. No calculations were necessary to determine this matter. What were the great objects desirable in the constitution of a Legislature? It ought to be sufficiently numerous to be placed beyond the reach of corruption, and to guarantee on the part of the members, an intimate acquaintance with the views and feelings of their constituents. At the same time, it should not be so large in its composition, as to lose sight of a proper despatch of the public business, and a regard for economy. Would not 100 members in the House of Commons, be sufficient for these purposes? Each county is to have one member. It is to be presumed, that he will know almost every individual in the county which he represents, and be apprised of his feelings and wants; and would be selected with a special view to carry into execution these wishes. What are the objections to this number? The only one advanced, which he considered as having the least force, was, that it would produce a great shock to the existing state of things. But he was astonished at the quarter whence the objection proceeded. It was to remedy the grievances of which the West complained, that this Convention was called, and now they are complaining lest too great a shock will be experienced. He was neither a prophet, or the son of a prophet, but unless greatly mistaken, the wit of man could not devise a plan, under the limited powers conferred on this body, for re-organizing our Government, which would not give some shock to the institutions of the State. And ought we, if we could, in settling great fundamental principles, to gild the pill, to hide its true qualities from the people? Or ought we to look at its effects upon particular counties? For as to any question of power, fix the basis as we will, in the House of Commons, the sceptre has departed, and the ascendancy is irrevocably transferred to the West; and, at every succeeding enumeration, that power will increase.—Regarding it as a mere question of power, he was disposed to

coincide in opinion with the gentleman from Buncombe, that cavilling about the number of members, in so far as it was to affect appointments, was quarrelling about straws. In the popular branch, he was willing to give up power. It was useless, however, to attempt to conceal the fact, that the Constitution now forming, was to represent the two sections of the State. It was important, then, that the Senate, which will be branded as the aristocratic branch of the Government, should be large enough to sustain the assaults which may be made upon it. He did not wish to allude to political topics in this body, but to illustrate his idea, he would refer to the Senate of the United States—a body distinguished above all others in the world for its patriotism, its firmness, and its intellectual supremacy. For the last six years, this body has been scarcely able to sustain itself, although its members are elected for six years, and it is yet a problem to be solved, whether it will be able to do so. Is not the same thing to be feared here?

The example of other States has been cited by the gentleman from Buncombe, as having a bearing upon this question. There is no analogy in the cases. True, in most cases, the Senate consists of a small body. But it is not so constituted as to preserve national interests. Besides, the Senators of most of the States are elected for a longer term than a single year; consequently, they would be both less liable to such assaults as those of which he had spoken, and more able to resist them, if they were made.

There was another part of the recommendation of the Committee to which he objected. It is proposed to have a re-assessment and a re-apportionment every ten years. Whatever might be said against the system of Representation by counties, it was at least uniform and fixed. If the contemplated changes are to take place, and the people are to be harrassed every ten years in this way, we must be short-sighted indeed, not to see that they will murmur at the arrangement. A Government, to give satisfaction, must be firm and stable.

Mr. O. said, he promised when he rose, to quit when he had done. He did so.

Mr. KELLY followed Mr. Outlaw, in explanation of the motives which induced him, in General Committee, though representing a small county, to move to fill the blank with the largest numbers for each House which the Act of Assembly warranted.

Mr. FISHER said, he was aware that he was about to address the Committee under rather unfavorable circumstances. Already the discussion had been extended to a considerable length, and signs of impatience for the question began to show themselves. Indeed, he should have abstained altogether from taking any part in this debate, but for the fact that one of the objections to the *maximum* number had not been as fully met as he thought it might be. He alluded to the allegation, that it gave the West an undue

share of power. Before, however, he examined this objection, he would take the liberty, respectfully, to express his dissent to a remark made by the venerable President of the Convention.—The remark to which he had reference, was in these words: “All changes in Government are from better to worse.” Mr. F. said, had this remark fallen from an ordinary source, he should not have thought it necessary to notice it, but coming *ex cathedra*, as it were, and bearing directly on the work in which they were now engaged, the case is different, and if it goes uncontested, may operate on the minds of many against the ratification of the new Constitution. He would, therefore, say a few words in reply.

In his opinion, Mr. Fisher said, nothing was less stationary than Governments—they were constantly undergoing changes. Changes in Government, however, are of two kinds. First, the secret, silent, and almost imperceptible encroachments which the Government is constantly making on the people—that perpetual, never-ending and never-tiring propensity in the Government to enlarge its powers. Government has been compared to the Screw in Mechanics—a screw that turns only one way: it gains all the power it can, and never loses any. These secret changes, which are constantly going on in Government, he admitted, were always “from better to worse.” There is, likewise, another description of change, which is always for the worse—that is, open *usurpations*. The efforts, however, which the people occasionally make to change back, to regain what was lost or stolen from them, either by secret encroachment, or open usurpation, that is, the efforts which they make to reform the Government, are generally for the better. If history proves any thing, it proves this. English liberty has been preserved by a succession of these changes or reform, adapting themselves to the changes of the country. The first great reform in England, was the MAGNA CHARTA—the next was the BILL OF RIGHTS—the third was the REVOLUTION of 1688, and the last was the great Reform of the GREY Ministry. All these were changes for the better, and not for the worse; and without these reforms, but little of liberty could now be found in England, or even in this country, for our forefathers received their ideas of liberty from England. Mr. F. said, the history of all other Governments, where the spirit of liberty ever breathed, would prove the same thing. From the foundation of Rome to the usurpation by Augustus, was a period of 724 years, during which time there were *eleven* important changes in that Government, on an average, one in about every sixty-five years. Now, he would not say all these changes were for the better, because some of them were open usurpations; but he would say, that whenever a change was made by a movement among the people, it was for the better. The expulsion of the Tarquins was certainly for the better, and most essentially so was the creation of the Tribunitian power. But, said

Mr. F. my intention is not to go at length into a discussion on this subject. I wished merely to express my dissent in a few observations from the remark of the venerable President—that “all changes in Government are from better to worse;” and, having done so, I will now proceed to the question immediately before us.

The great objection that gentlemen seem to have to making the House of Commons consist of one hundred and twenty members, is, that it will give to the *West* an undue share of power. Now, it appears to me, that there is nothing real in this objection—it is altogether imaginary. Indeed, of all the numbers within the range of our selection, this one of one hundred and twenty, in my opinion, is the one most favorable to the Eastern section of the State, where the small counties are generally located. As regards this question of power, of which we have heard so much on both sides, he thought that gentlemen had not examined it carefully, otherwise they would see it in a different light. It is not for power, in the sense understood in this debate, that the West contends—it is for *principle*: it is for a system that will spread over the whole State, and operate equally on every part of it. No one in this body will deny the unequal operation of the present Constitution on the people of this State, but they say it has worked no evil. Now, we think otherwise, and thinking so, we are dissatisfied, and claim what we have a right to claim, that the Constitution shall be so changed as to operate equally on all, and permit all to be equally felt in the Legislative branch of the Government. But, even if it be admitted that no acts of real oppression or injustice have occurred under the present unequal system of Representation, still it is wise to secure ourselves against the possibility of such, by a change in the Constitution. If, heretofore, we have experienced no very great inconvenience from the system, the reason is, that our State Government has been poor, and has had but little money and but few offices to distribute. Had the case been otherwise, that is, had the Government been in possession of large sums, and much patronage, then, it is certain, that this unequal distribution of power would have been often exercised by an unequal distribution of the money and the patronage. Mr. F. said, that gentlemen did great injustice to the West, if they supposed that we were struggling for power with an eye to the “spoils of office.” We have higher motives. But, if the West had in view the spoils of office, then this would be the wrong way to acquire them. I contend, said Mr. F. so far as the offices are concerned, that the West now occupy the best possible position for obtaining them. We are in the minority, but not very greatly so; yet enough so to keep us united. Minorities are always more united than majorities.—The reason is, that the consciousness of numerical weakness in minorities unite them, while in majorities the knowledge of their

powers makes them less careful to act together. The majority does not always move in perfect concert. If, for example, the object is to elect a Senator, or Governor, it may happen that some two or three individuals in the majority wish the office—each has his friends—their claims conflict, and thus the elements of schism are introduced. Not so in the minority. Every move in the majority is a signal for them to rally. They move in phalanx, and take the antagonist position, and a very small defection in the ranks of the majority enables the minority candidate to succeed. If this be true in general, it is particularly so in North Carolina, in reference to our local divisions. The East has the majority in the Legislature; but, in the East there are several local interests, which will always prevent very close union. The Roanoke, the Cape Fear, the Pamptico interests, never can pull well together—and a jealousy between them will always exist. Now, the West, in this respect, is more homogeneous, and acts more in unison. To these causes may be attributed the results in the Elections for the great offices in this State during the past six or eight years. Thus gentlemen must see, if power, with an eye to offices, was our object, that we now stand in the best possible position to obtain them, and that a change must act against us.

Again, sir, if power be our object, I cannot see how we can gain it by taking the number one hundred and twenty, instead of one hundred. If there be any truth in figures, one number will not give any more power to the West than another. Take any number you please, from ninety, the *minimum*, to one hundred and twenty, the *maximum*, and if you work out the sum fairly, the results will be proportionate. The East can receive no more than what its population and taxation entitle it to, and the West no more than its share. We have seen, that take what numbers you may, and the East will have a majority in the Senate, and the West in the House. Now in all legislation, the two Houses act by concurrent votes, and one is a complete check on the other. If the West forces through the Commons a bill bearing unequally on the East, when it goes to the Senate, the Eastern majority at once rejects it. It is only on joint ballot, that the majority complained of could be felt, and I have already shown that we have nothing to gain by changing our position as regards the offices. But really, sir, all this struggle for the majority, as regards local division, is idle—it is nothing. After the ratification of this Constitution, you will never more hear of East and West, as parties. The distinction will be forgotten, will be rubbed out, like a mark on the sand, and a new division of parties will rise up. The peculiar situation in which the Southern States stand to the rest of this Confederacy, will always make sectional parties give way to the stronger excitements which grow out of the action of the Federal Government. In

other words, local parties will always be merged into the great political parties of the country. Federal politics, like Aaron's serpent, will swallow up the rest. Even heretofore, that has been the case in North Carolina; and now, that all cause of jealousy between the two sections of the State is removed, it will become still more so, and for one, I heartily rejoice at it.

Then, say gentlemen, if this be so, and no power is to be gained by the highest number, why is it that we so pertinaciously contend for one hundred and twenty, and reject one hundred? They seem to think that there is a design in it. I will answer. Yes, we contend for 120, and we have a *design* in it. We go for 120, because that number will make less derangement in the counties than 100 will—because it will dissatisfy fewer people in the State, than any smaller number—because 120 will give two members to all the medium size counties, and thus satisfy them with the changes; whereas 100 will cut off a number of these medium counties with one member, and thereby dissatisfy them with the change, and make them vote against the ratification. We wish this question settled. It has for 40 years distracted the Councils of the State—it has withdrawn the attention of our people from almost every thing else—it has created jealousies and heart-burnings among us, and obstructed wholesome and sound legislation. It is time that this vexed and vexing question should be adjusted. The interest, the honor and prosperity of the State require it; and in distributing the Representatives, we wish, therefore, to adopt that *ratio* which will secure the ratification of the new Constitution. This is our *design*, and we believe it is one which cannot be called unpatriotic. Mr. F. here read to the Committee a statement to show that if 120 should be adopted, even the smallest size of the medium counties would be entitled to two members; whereas, at 100, the whole of the medium class would be cut off with but one member, and would have large fractions.

Mr. SPEIGHT, of Greene, remarked, that he rose to address the Committee with some reluctance, having already consumed too much of their time. The only apology he could offer, was the deep and abiding interest he took in the final decision of this question. For he considered, that if the amendment he had offered was rejected, and the number of the House of Commons was fixed at 120, the interest of the East was irrecoverably gone. Mr. S. said, it was known to every gentleman within the sound of his voice, that he had, in the outset, endeavored to prevent the Convention from taking the obligation prescribed in the Act of Assembly, not, he assured gentlemen, with a view of preventing justice being done to the West, but from a solemn conviction that whilst this most gracious compromise, which was to act as a panacea and heal up all wounds, would work manifest injustice to the East, it did not accord to the West what was

their due, or at least, not what they had been contending for.— But in that he was foiled. It only remained, situated as they were, bound by all the solemnities of an oath, to make such amendments as would secure to the West their due weight of representation, while the East should not be entirely sacrificed. In view of this, he had the other day, while discussing the subject with the gentleman from Buncombe, (Mr. Swain) exhibited what he conceived would be the result, or rather the effect, of this most gracious compromise, assuming as a fact, that the basis of representation in the Senate would be 50, and the Commons 100.

The gentleman from Buncombe, however, had endeavored to controvert his statement by stating that even if the basis in the Commons was fixed at 120, the relative difference would not be more than 3 or 4. Now, sir, said Mr. S. what was the mode of calculation which he adopted to ascertain the result in the Senate? It was this: Take the gross amount of taxation and divide it by 50, and it gives the ratio of taxation necessary to constitute a Senator; consequently, 27 would fall East of a certain line, while 23 would be West of it. This, I think, the gentleman admitted to be correct, but thought the result as to the difference in the House of Commons, assuming 100 as the basis, was totally different from what I had produced. The gentleman seems to rely much on the calculations of friends out of doors, and very ungenerously endeavors to convince the Committee that the number 100 will be much more favorable to the West than 120.— Now, he wondered, if such was the result, why he labored with such unremitting zeal to fasten on us the number 120. We are surely much indebted to the gentleman for this new discovery.

In the first place, let it be remembered, said Mr. S. that assume what basis we will, each county has to be supplied with a member. Take, then, the smallest number, 90, which will give a ratio of federal population of 7,084. After giving to each county one member, there will remain 25 members to be divided according to federal population. Now, West of this ideal line, there are 28 counties, which having received each one member, will yet have a population of 141,144 unrepresented; which population divided by the 7,084, will give 19 representatives, which will, in all, give to the West 47 members, while the East will have 43; which, with the Senate at 50, would produce an equal division on joint ballot. Now, he maintained, that if the East were to contend for what was equal and right, that this is the number we should contend for; but they are willing to act magnanimously—they are willing to act up to the compromise, and take one hundred, which the gentleman from Buncombe will see, gives the West a majority of 6; 110, by the same rule, will give them 8; and 120 will give them a majority of 10.

Sir, said Mr. S. I honestly believe the number 100. is the most equitable and just. It is that number which, while it gives to the West a majority in the House of Commons, will not be so great as to destroy the hope of a controlling influence in the Senate. He could not refrain from the expression of his regret, to have heard it more than once repeated on this floor, that if the Senate should be fixed at 50, and the Commons at a less number than 120, that the West would not take it as a compromise, but would rise in their might and majesty and shake off the shackles which bind them. No man would more than himself deprecate such a catastrophe; but he assured gentlemen, that such threats as these (if so intended) were no terror to his mind. Mr. S. said, he stood there as the representative of a small county, which is to be seriously affected by this most gracious compromise, and if he were to be deterred by any consequences from asserting her rights, he should be recreant to the trust confided to him. Feeling himself bound by all the solemnities of a most solemn obligation, he appealed to Heaven for the truth of his declaration, that he had no other object in view but to do justice both to East and West; but never, so long as he was able to raise his humble voice and cry aloud, would he remain silent, and see his constituents doomed to submit to the edicts of a merciless majority. He did not say this would be the conduct of the West, but really it seemed that nothing short of the sole control of the Government would satisfy them. He had not, he said, lived to his age, not to be solemnly impressed with the truth and importance of that great fundamental maxim which recognizes the right of the majority to rule. He admitted its truth, but at the same time it is equally true, that, for the security of the minority, certain checks and balances should be interposed, to arrest the hand of oppression, which is too often extended over them. He looked upon that Government which imposed no restraint on the undue exercise of power on the part of the majority, as more odious and tyrannical than the most despotic power of Europe—nay, a Military Despotism is far preferable to it.

What, said Mr. S. is the security which the East is to have, that their rights are not to be invaded? The friends of this compromise will tell us, Representation upon principles of taxation in the Senate. Provided this were secured upon any thing like principles of permanency and duration, it might do; but what is the basis of taxation assumed? Not Land-tax and all that savors of reality, together with Poll-tax; but every grade and species of taxation known to the law, is included. Even the lowest grade of vice and immorality are permitted to be represented in the Senate. As, for instance, a small county paying a tax of five and six hundred dollars, with a Billiard Table and a few stud horses and *long-eared animals*, may entitle itself to a Senator. What permanency is there in such a system as this?

Have we any assurance that it will be next year what it is this? He had stated, therefore, what in his opinion was the true basis of a compromise between the East and the West. And here, in his place, he would take occasion to repeat his belief, that before five years shall have rolled around, the people of North Carolina will repent the day they ever gave their sanction to this Convention. We have lived under this Constitution for near 60 years, and although we have been abused and derided as a low-spirited, inactive people, he believed North Carolina was the garden spot of the world. He knew of no place under the sun which he would prefer to the good old North State; and he looked on every attempt to stigmatise her, as unworthy of notice. He had heretofore expressed his belief that no compromise which did not give each county a Senator, would ever go down with the small counties; not that he deemed such a large Senate as strictly conformable to our Institutions, but because the habits and customs of the people had grown and strengthened with that system, and it was neither safe nor prudent to depart from established principles.—From the foundation of the Government, until now, each county has had its Senator; and he asked gentlemen to tell him what evil had accrued to the community from this mighty inequality which gentlemen seemed so fond of reiterating? Had the small counties exercised any thing like oppression; in other words, had the East oppressed the West? It had been said by the gentleman from Buncombe, that much the largest expenditures of the public disbursements were in the East; but that gentleman had not explained, to his satisfaction, how it came to pass. Look at all our Officers! Two-thirds of them are in the West; and what has the West asked for, that they did not get? It may be said, that as freemen, they were entitled to it without asking, and he admitted it to a certain extent. But, in the name of all that is sacred, will the West persist in pulling down our ancient and beautiful fabric of Government, for the redress of imaginary evils? He did not pretend to deny that defects existed in the Constitution, but they are not of that nature which justify its destruction.

Mr. S. said, that in the remarks heretofore made by him, he had endeavored to show, that in the formation of all of our State Governments, a primary object has been the fixing the Senate on a permanent and solid basis, not liable to fluctuation. And, in addition thereto, he would add, that it is a conservative principle or feature in all well organized Governments, to give property a preponderating influence in the one branch, over that of population in the other. These checks are as vitally necessary to the maintenance of all free Governments, as food and clothing are to the human system. He therefore contended, not only that the wealth of the State should have a controlling influence in the Senate, but that it should be fixed on such a basis as would not admit of fluctuation. The West ought to be willing to give us a

Senator for each county ; and, in return, we ought to agree that they should be represented in the House of Commons according to free population. Not that he would ever abandon or lose sight of federal population in the Federal Government, nor even here, but for the sake of compromise. But, sir, said Mr. S. the die is cast—the “Rubicon is past,” and the question is, what numbers are most appropriate for the two Houses, respectively? His own opinion was, that fifty should constitute the Senate, and one hundred the House of Commons. Were we now a new State, and he was called on to mould a Constitution, he might be induced to select a number between which there is a greater disparity than those he had named. But, as he had already stated, we ought to frame the amendments so as to produce as little shock as possible. He was for giving no more power to the West in the Commons, than to the East in the Senate. He had no idea of so framing the Constitution as to put the East completely at the mercy of the West, though towards that section of the State he had no unkind feelings. But, he had lived long enough to know, that power often forgets right ; and while the East had it, he was not disposed to give it in such a manner as would put it in the power of the West to oppress them. He never pretended to deny the justice of some of the claims of the West to a Convention ; and could the single isolated question of Representation, have been presented to the people, unclogged or unfettered with any of those incumbrances which have accompanied it to gull the minds of the people, he should have been willing long since to have met the question, and to have settled it. But what had been the miserable subterfuges to which the advocates of this measure had resorted to carry their point? Have they met the question before the people openly and fairly? No, sir ; when the people have been called on to vote *for* or *against* a Convention, it was not only to amend the Constitution as respects the basis of Representation, but they flattered them into the belief that a mighty system of reform and retrenchment was to be brought about. Not only that the number of members in each House was to be greatly diminished, but that they were to have biennial sessions, and that the people were to elect the Governor, &c. It is appeals like these which have been made to the people with so much effect ; appeals which the demagogue will always make to the people, when he wishes to blind them to his real designs.

It will be recollected, sir, that one of the principal reasons urged for the call of the Convention, was to economize the expenditures of the Legislative department of the Government.—And he must confess it was not without its weight on him. He had often regretted the waste of time and money which is annually consumed by the Legislature, and he called on the friends of the Convention to join with him and reduce the number in the Commons from 120 to 100. He would appeal to the candor of

this Convention to say if 100 members would not as well represent the interest of the people as 120. He asked the gentleman from Rowan (Mr. Fisher) if 8 members would not as effectually represent the interest of his county, as 4; and to Lincoln, Orange and Mecklenburg, he made the same appeal.

Mr. S. said, there was one melancholy fact about this business, which he could not pass by. Notwithstanding the exertions which have been made, to bring the people of the East to vote for the call of a Convention, not more than 3000 have done it, and 39 counties, out of 65, have given majorities against its call. Now, he called on gentlemen on this floor, who came from these counties, to say if they believed their constituents desired any change in the existing Constitution: and if not, why are they disposed to go for a number which places the fate and destiny of the small counties completely at the mercy of the large ones? Why not concur with him in fixing a number which will do equal justice to both parties? He appealed to Heaven for the truth of his declaration, that he had no other object but so to frame the amendment as to heal the long existing breach between the East and the West. He did believe that the number 100 was the only one which would satisfy the East. And he cautioned gentlemen not to attempt to cram down the throats of a patriotic people, a Constitution which is objectionable.

Mr. S. said, he came now to notice the remarks of the gentleman from Wilkes, (Mr. Wellborn,) who had informed the Committee, with a candor which has always marked his course, that a primary object which the West had in wanting their just ascendancy, was to commence a great and splendid system of Internal Improvements. Now, he need not assure this Committee that he was the friend of Internal Improvements, such as will afford a facility to the farmers of our country in getting to market; but he equally deprecated those wild and visionary schemes on which the demagogue always mounts to power. The gentleman talks about a Rail-road from the seaboard to the mountains. Why, sir, such a scheme is not only idle and visionary, but perfectly impossible. In the first place, we have not active capital enough at our command to make it; but if we had, and it were made, and we were to concentrate all the produce of the State, it would not yield a profit sufficient to cover the expenses. Gentlemen tell us about the great profits arising from Rail-roads.—It is not the transportation which yields this profit, but the money received from passengers.

But we are told, that North Carolina is a degraded State, and something must be done to elevate her in the eyes of the world. He did not admit the truth of this assertion. North-Carolina was not degraded. We are a happy people, and a prosperous people, and our institutions will bear a comparison with those of any State in the Union.

Gentlemen rise in their places and tell us we must do something to stop the tide of emigration. This can never be done, while the land markets of the West are open—men of enterprise and capital will seek their fortunes in other and more fertile regions. Look at the emigration from other States. If correctly informed, the emigration from our sister State to the South of us, has far exceeded us.

Though, said Mr. S. I am aware that the subject of Internal Improvements is not strictly applicable to the question now under consideration, as it has been referred to by the gentleman from Wilkes, I will make a remark or two in addition to what I have already said. From his remarks, it might be inferred that the East were opposed to Internal Improvements. Such, however, is not the fact, nor has their past conduct evinced it. He believed that some of the warmest friends of that system have come from the East, and in all plans which had had for their object a judicious expenditure, the East have been as liberal as the West. He could tell gentlemen why Internal Improvements have hitherto proved ineffectual in this State. It is a lamentable fact, that there exists a mutual jealousy all over our State, not only between the East and West, but between the Cape Fear, the Neuse, the Roanoke, &c. And the consequence is, whenever any improvement is proposed in one section, an opposition arises in another, and a resort must be had to that odious system, known by the name of log-rolling, to carry any point. The idea of ever raising up a town in North Carolina, like New-York, Philadelphia, Charleston or Norfolk, was to his mind, perfectly visionary; and no true friend of Internal Improvements will ever preach up such a doctrine. From those insurmountable impediments and instructions, which nature has thrown in our way, we are doomed, in many respects, to a state of dependence, though we have it in our power greatly to improve our condition. Should he ever have the honor of again being a member of the Legislature, he intended to bring forward a plan, and the only one which can improve our condition, viz: a Rail-road from Beaufort to Newbern, and one from Fayetteville to some central point in the West.

The former would give to the East facilities for reaching one of the best harbors on the Southern coast, while the latter would give the West an opportunity of a market at home. This, he repeated, was all they wanted to give them a start, and then as they progressed, they might advance their improvements.

But to return to the immediate question under consideration. If the East were to be taxed to build Rail-roads, they should be represented so as to insure a faithful distribution of the money. For he held it to be a truism, that no man ought to be taxed for the benefit of another, without his consent. The West would have just as much right to come and take his hands into the

mountains, as to take his money to hire hands to do it with.—Mr. S. said, it had been urged by the gentleman from Buncombe, as a reason why the amendment should not be adopted, that the disparity between the two Houses would be great enough, and that the examples set by our sister States were against the principles laid down by him. It is true, that in several of the Northern States, the Senate is comparatively small; yet they are not regarded as merely a legislative branch of the Government—they have certain supervisory powers, and are a court of dernier resort, possessing the highest powers of any in the State. But in a majority of the States south of the Potomac, the very principles for which he was contending, are clearly maintained.

Mr. S. said, he thus, in as brief a manner as possible, answered some of the objections which had been brought forward against the adoption of his amendment. It only remained for him to perform the solemn but painful duty of taking an affectionate farewell of his bantling. The fact was not to be disguised, that there was here a settled and fixed majority against him and what he believed to be the interest of the East. He had expressed himself with some feeling, but more in "sorrow than in anger." Towards the members of this Convention, both individually and collectively, he had no other feelings than those of friendship.

The Committee then rose, reported progress, and obtained leave to sit again; and the Convention adjourned.

THURSDAY, JUNE 18, 1835.

After Prayer by the Rev. Mr. Jamieson,

Mr. WILSON, of Perquimons, called for the second reading of the Article, proposed to be incorporated in the new Constitution, in relation to the right of Free Negroes to vote.

Mr. SPEIGHT, of Greene, enquired of the gentleman whether his object was to have the Article discussed, or simply read, in order that the Rule of the Convention, requiring such articles to be read three several times on three several days, might be complied with, and some progress be thereby made.

Mr. WILSON said, he only wanted it read for that purpose, and should not say a word on the subject.

Mr. MOREHEAD remarked, that though the gentleman had said that *he* would not discuss this matter, they had no assurance that a reply to any remarks that might be made, would not be offered by the gentleman from Perquimons. The unfinished busi-

ness of yesterday was a more interesting and absorbing question, and ought to be disposed of first.

Mr. WILSON replied, that the gentleman from Guilford was right in supposing, that if any amendment were offered, with a view to affect the decision already made on this question, that he should submit some remarks thereon. He should feel it his duty to do so, and therefore gave notice of his intention.

Mr. GASTON, of Craven, said, that this discussion, then, was an unprofitable one; for, if no other gentleman did, he should submit an amendment to the Article when it came up, if for no other purpose than to have the *Yeas* and *Nays*.

The question of consideration was then put, and negatived.

On motion of Mr. SPEIGHT, of Greene, the Convention then resolved itself into a Committee of the Whole, on the unfinished business of yesterday, Mr. *Shober* in the Chair.

The Convention being in Committee of the Whole, on the Articles reported for regulating Representation in the Senate and House of Commons,

Mr. GASTON, of Craven, rose and said, that as no other gentleman seemed disposed at this moment to claim the attention of the Committee, he would avail himself of the opportunity to submit *his* views on this deeply interesting subject. Sensible as every member of this body must be of the grave and responsible character of the duty assigned to the Convention, of reforming the Constitution of the State, all must perceive, that no part of their duty presented such difficulties as that of reforming the basis of representation in the General Assembly. We were now employed in altering the foundation on which our Political Temple had rested and settled for more than half a century; and it will not be easy, with all our skill and caution, to execute this undertaking so as not greatly to disturb the entire edifice, and perhaps endanger its permanent safety. The difficulties of the undertaking were much increased by intrinsic causes. Under the Constitution, as it is, every county in the State, without distinction as to population or wealth, has the same number of members in the Legislature. The Convention has been called into being by the votes of the freemen of the State, but it was constituted upon this principle of equal power in the counties. A majority of the people had willed the Convention, but a majority of the counties was decidedly opposed to it. The delegates, said Mr. G. were chosen immediately after the decision of the people was made, and it cannot be doubted but that they bring into the Convention the opinions, feelings, interests and prejudices entertained and felt by their respective constituents. A large portion, a majority of them probably, have come with a strong dislike of the duty enjoined upon them, and under a settled apprehension that evil and not good will be the result of its performance. Obligations, not to be resisted without guilt, may com-

pel them to execute the allotted task, but it is impossible for them to do it otherwise than grudgingly. Nor is this the only, nor perhaps the greatest difficulty. It is notorious that the State has long been distracted by bitter sectional parties. It is unnecessary to enter into a detailed history of the origin and progress of these parties, but it may help us in making peace between them, briefly to advert to the causes which brought them into being, and stimulated them to rancor. The first settlements of North Carolina were made on the seaboard, where counties were from time to time laid off, of such convenient size as was demanded by local causes. As the population swelled, its tide flowed up into the interior, to and even beyond the mountains. It became necessary to form additional counties, which were, of course, much more extensive than those to the East, because of the sparseness of their then population. At the time of our Revolution, when the existing Constitution was formed, the State was found distributed into counties, small towards the seaboard and large towards the West, but with no very marked inequality in the numbers which they respectively contained. In the Constitution the counties were regarded as equal, and to the inhabitants of each was given the power to elect one member to the Senate, and two to the House of Commons of the General Assembly. The large counties soon became more populous, and for a time there was no difficulty with the Legislature in dividing them into counties of smaller and more compact size, when the number and convenience of their citizens required it; nor was the Legislature importuned by petitions for this purpose, except when a reasonable cause existed for the application. But, by the Constitution, no Seat of Government was established. The Legislature held its Session every year at such place as the Legislature of the previous year appointed by Resolution. It moved from time to time, and the place of its sitting became a question on which the greatest excitement was felt. The members from the counties embracing or contiguous to the towns which were solicitous to get the benefits of a Legislative Session, exerted themselves with zeal in supporting their respective pretensions. This zeal was communicated to the members from the adjoining counties—many local parties were thus created, and these finally settled down into two, an Eastern and a Western party; the one for meeting on the seaboard, the other for meeting in the interior. It is immaterial for what purpose combinations of men are formed. Once formed, men accustomed to act together on one subject, will combine for others also. This array of parties against each other, affected all the operations of the Legislature, and was felt in the appointments to office, and in very many even of the public laws. To terminate it, as it was fondly hoped forever, a Resolution was passed, recommending to the Convention of the People, about to be called to deliberate on the Federal Constitu-

tion, to fix the permanent Seat of Government for the State.—After severe contentions, and by a very small majority, the spot on which this City has been since built, was selected for the purpose. Complaints of management, intrigue and bargaining, were preferred against the majority, by the unsuccessful party; years passed by before the necessary laws could be enacted for carrying into execution the judgment of the Convention—and after they were passed, fears were expressed, and indications occasionally made, of a purpose by another Convention to change the Seat of Government. It is not wonderful that, under these circumstances, a mathematical or ideal line, running through the State a little to the West of this City, was regarded as dividing it into two sections, with dissimilar interests, opposite purposes and almost hostile feelings. The most unfounded suspicions and jealousies were entertained on both sides.

Who does not know that when any class of men is opposed by others *as a class*, whether it be a sect in religion or a party in politics, the vilest slanders and the most stupid falsehoods are mutually circulated and accredited? Who that has long been engaged in public life, and calmly reviews his course, does not feel remorse for the injustice which he has done to the motives of his adversaries? If under any circumstances, the West applied for the admission of a new county or for the division of an old one, the East had no question but that the sole motive was a solicitude for more power. The West not having their fair share of power, were anxious to increase it in the only way by which, under the Constitution, it could be augmented, and sometimes pressed for the creation of counties when the wants of their people did not peremptorily require it. But right or wrong, necessary or unnecessary, it became a maxim in party politics, that no new county should be made in the West unless it could be balanced by a new county also in the East. With a great superiority of numbers on their side, the West—a decided majority of the people—were thus controlled and kept down, in this party warfare, by a minority of the people in the East. It could not but happen, as it has happened, that this majority should become deeply dissatisfied with the political institutions of their country, and vehemently demand such a change in them as would correct this artificial inferiority. Nor could it well be otherwise, that those who had so long struggled with success, by means of these very institutions, against this majority, should feel an almost panic fear at being called on to surrender the sceptre of power, barren and profitless as it had been. True it is, that the original causes of difference have disappeared. The permanent Seat of Government is unquestionably fixed, and there is probably not a man in the State who entertains a wish or an apprehension that it will ever be disturbed. But, the fears and mistrusts of each other—the miserable jealousies and suspicions thus engendered and long

entertained—cannot be immediately banished. When He who gave to the sea his decree, that the waters thereof should not pass his commandment, bids it “be still,” it quails at his voice, and instantly sinks into a repose as profound as the slumber of a hushed infant. But, ordinarily, the agitations of human passion, like the billows of the ocean, continue to swell and to rage long after the storm has subsided which lashed them into fury. We know not each other as we ought, and we meet not here with the dispositions which we should have. Children of the same common country, having in truth but one and the same interest, and alike desiring only what is right, we ought to meet as members of the same family, consulting for the good of all. But, is there not reason to fear, that too many of us here, come rather as negotiators for conflicting parties, charged with the duty of upholding their respective pretensions, and of resisting, to the utmost, those which may be advanced on the other side?

The most perplexing difficulties do, then, attend the task of satisfactorily adjusting this vexed question. But the path of duty is always obstructed by obstacles, and he who, because of them, shrinks from the performance of what he owes either to his God, his fellow men, or himself, adds cowardice to guilt. The difficulties are such as to call for the exercise of wisdom, moderation, justice, candor, and firmness—as should nerve us for high efforts, intellectual and moral, and keep down, as far as the frailty of our imperfect nature will permit, every prejudice, passion, and unworthy influence. But they are not insuperable. They *can* be overcome—they *ought* to be overcome—and we shall fail, miserably fail, in what our country demands and our consciences enjoin, if we do not overcome them. An omission to settle this question now, in such a manner as to tranquilize the public mind, he should regard as no ordinary calamity. He did not anticipate, indeed, in that event, the result predicted by the distinguished gentleman from Buncombe, (Mr. Swain,) a gentleman for whom he took pleasure in testifying the highest affection and respect. That gentleman, not in the language of menace, for he was perfectly sure no menace was intended, but in earnest language had predicted, that if a satisfactory arrangement were not now made, the People of the West would rise, like the strong man in his unshorn might, and pull down the entire political edifice. Sir, said Mr. G. the strong man of Zorah, the son of Mannah, was brought from his prison-house into the Temple of Dagon, to do honor to the impious feast, and to make sport for the enemies of his country. Bowing down with all his might, he tugged and shook the massy pillars which upheld the ponderous roof, till he buried *all* beneath one hideous ruin. It was a glorious deed.—He fell a martyr and a hero, ‘victorious among the slain.’ But should our brethren of the West, in a moment of excited passion, because of deferred hope or blasted expectation, violently upturn

and overthrow the existing Constitution, the mad triumph will be a triumph over order and law, over themselves and their friends and their country. This, surely, would be their very last resort, their *ultima ratio*, which nothing but hopeless oppression could excuse, and which they will never adopt, while other means of redress are attainable. It is impossible to deny that they have cause of complaint. It is impossible to insist that, on any principle of free government, the *present* distribution of political power can be longer upheld. They have urged their complaints almost as one man, and have assented to terms of adjustment, moderate and reasonable, the rejection of which must exasperate resentment, and raise yet higher their demands. No government on earth can be long insensible to the rooted dissatisfaction of a large number, and still less of a majority of its citizens. The despot sometimes, and often to his own destruction, attempts to keep it down by the bowstring or the sword: but, in a *moral* and *free* government, it must be allayed, and it can be allayed only by concession.

We are not only urged to complete the proposed adjustment by every consideration of patriotism, but are bound by the obligation of a solemn oath. It seems strange that there can be a difference of opinion in construing the explicit injunctions of the Act which was ratified by the People, and which called this body into being. Some gentlemen are disposed to think, that in calling this Convention, the People have done no more than to say to us, you *shall consider* certain proposed amendments to the Constitution, and you may consider others. Sir, they have done a great deal more. The first part of this Act, provides a mode for ascertaining whether it be the will of the People that a Convention shall be called for amending the Constitution in the particulars specified; and the next directs how the Convention shall be called and constituted, in the event that the majority of the People shall have demanded one. The Act, then, declares that no delegate shall take his seat in the Convention, until he shall have solemnly sworn that he will not, directly or indirectly, evade or disregard the duties enjoined, or the limits fixed to the Convention. What are the duties which he is thus bound to execute, and the limits which he is forbidden to transcend? The 13th section declares, that in voting for a Convention, the People shall be understood as having pronounced their will, that the Convention *shall* frame and devise amendments by which the members of the Senate shall be reduced to a number not less than 54, nor more than 50, to be elected by districts, and according to the ratio of taxation, and *shall* frame an amendment whereby to reduce the members of the House of Commons, to not less than 90, nor more than 120, to be elected by counties or districts, or both, according to federal numbers. If the People command this to be done by the Convention, is it not the duty of the Convention to obey this

command, and of course the duty of each delegate, honestly and in earnest to contribute his exertions to the fulfilment of this command? Should he act otherwise, does he not *evade* and *disregard* the duties enjoined on him? This section then proceeds to point out several other proposed amendments, which the Convention *may*, or *may not*, at its discretion, make in the Constitution. The 14th section designates the limits which the Convention is forbidden to transcend, and which, therefore, no member is to evade or disregard. The limits might, perhaps, have been fairly collected from other parts of the Act, but for greater certainty, are in this section expressly set forth. It declares that the People, by ratifying the Convention Act, shall be regarded as having conferred on the Convention a power to make amendments in the particulars therein enumerated, or in any of them, but in *no others*. The power extends to all and to each of the amendments proposed—the *duty* is enjoined as to some—*discretion* allowed as to others. The oath commands the performance of the duty as explicitly as it forbids the transgression of the power. Some things we *must* do. Some things we *may* do.—There are others which we *cannot* do. We swear to do what is commanded, and to abstain from what is forbidden.

But, while gentlemen have admitted that there was an imperative obligation on them to carry out into execution the command of the people, as to the reform of representation, they have at the same time protested strongly against the principles upon which this reform is based—the principles of compromise, as they are termed, between the Eastern and Western claims. As a friend to peace, he greatly regretted that they should have indulged in such a course. It led to the re-opening of the fountains of strife which it was the purpose of the Convention Act to bury forever. This was not its only mischief. However sincere these gentlemen might be in their determination to obey the command of the people, nothing was better calculated to weaken this resolve, than to find fault with the command. He who enters upon a prescribed task with a strong repugnance to it, seldom performs it faithfully, and nothing more effectually increases this repugnance, than dwelling upon the objections which can be made against the undertaking. Although, therefore, the duty imposed on us is the same, whether the terms of compromise be equal or unequal, yet it may not be immaterial as regards the zeal with which the duty should be performed, to shew, that, in truth, the terms are fair and equitable.

A captious criticism may perhaps censure some details of the plan of representation, but it appeared to him difficult to find fault with the great principles on which it was based. These were taxation as the ratio of representation in the Senate, and federal numbers as the ratio of representation in the other House. The gentleman from Greene (Mr. Speight) had objected to the

first, as not giving its due weight to the East, and had objected to the second, as not giving its due weight to the West. This really seemed to be in the very spirit of fault-finding; for even were it well founded, unless the supposed wrongs were unequal, they counterbalanced each other, and left the arrangement fair. If equal weights be taken out, or put into opposite scales of the same balance, the equilibrium is not disturbed at all. As there is then no unfairness shown of a sectional character, let us see if there be any departure in it from the principles of free Government.

The necessity of two Houses of Legislation, as checks upon the haste, improvidence, sudden impulse, and intemperate excitement of either, is so universally admitted, that it may be regarded as a political axiom. In the constitution of these two Houses, it is desirable that they should in truth operate as checks—that they should not be liable to feel at the same moment that impulse or excitement which leads to haste and improvidence. In the Federal Constitution, one branch of the Legislature is chosen by the respective States, as co-ordinate members of the Union—and the other branch is chosen by the People in the different States, according to population. The propriety of this arrangement arises from the peculiar nature of that Constitution, which binds together, as well the States as the People of America. It is to many purposes a confederacy of the States, and to all others, it is a Government operating directly upon the citizens of the United States. To keep up the balance between its federative and national character, the Senate is framed as fitted to protect the former, and the House of Representatives constituted so as to secure the latter. To every law the concurrent action of these bodies is indispensable—and thus the two great principles of the Constitution are upheld, as checks upon each other. In the Constitution of a State, all the operations of whose government are not only direct upon its citizens, but wholly confined to matters of interior concern, the only interests likely to be often arrayed against each other, are those of *property* and of *persons*. Such a Government is formed for the purpose of protecting property and persons, and would be inadequate to its end, if left either at the mercy of the other. It can never indeed, be the true interest of any individual, or of any body of men, to oppress or to injure others; but every day's observation, and it is to be feared, that every day's experience, must convince us, that a fancied immediate advantage, magnified by the mists of passion, often tempts us to forego our permanent good, and wrong our fellow men, under the delusion that we are benefiting ourselves. It is right that government should be so constituted as to bring the steady influence of interest in aid of the commands of duty. The Senate in our Legislature, is intended especially to represent and protect property. He had heard it objected to the constitution

of this body, that a poor man was often as estimable as a rich man, and that it was a departure from Republican principles, to allow the latter to vote for a Senator and not to permit the former to vote also. It should be borne in mind, that governments are formed for practical purposes, and not to present themes for the exercise of schoolmen and declaimers. The poor man may be personally far more meritorious than the man of property.—Personal merit depends on integrity, intelligence, firmness and temperance. He who wears a tow shirt, or no shirt at all, may, in all that respects personal merit, be infinitely superior to the profligate rich man, or the narrow-hearted and unfeeling miser. Nothing can be more true than the sentiment of our great didactic Poet, that

“*Worth makes the man; want of it the fellow;*
The rest is all but Leather or Prunella.”

It is not because of his personal desert, that the privilege of voting for a Senator has been secured to the Freeholder, but that the rights and interests of *Freeholders*, as such, should not be invaded and broken down. The most exciting principle of action in civilized society, is the desire of gain. Regulated, it is the great stimulus to industry, order and temperance—unchecked, it leads to plunder, violence and outrage. It is at once encouraged and regulated, by securing to every one the fruits of his own industry, and of the industry of those whose acquisitions have been transmitted to him. It is idle to call this principle, as it operates in our country, an aristocratic principle. From the ease with which property is acquired, and the rapidity with which it is spent, there are here no permanent orders of rich and poor. The poor of yesterday are generally the rich of to-day, and the rich of this day will probably be classed among the poor to-morrow. If these changes should not happen among those who now do or do not hold property, it is very certain that they will take place among their children. The Senate, therefore, represents the interests which spring from the possession of property, and the rule for its apportionment, as laid down in the Convention Act, that is, the ratio of taxation, seems to be peculiarly suited to the constitution of such a body. The principle which the gentleman from Greene (Mr. Speight) proposes, that of equal representation by counties, is supported by no reason whatever—is upheld by nothing but existing usage—stands condemned by the People, and has had its day.

Taxation is not, indeed, an unerring criterion of property, but it is one of the best which can be adopted in practice. The Legislature have unquestionably endeavored, and always will endeavor to make the contributions of the citizens proportioned to their ability, and we may therefore reasonably assume the amount contributed in each section of the State, as indicative of the amount of property enjoyed in it. Nor could he see the force of

reasoning, by which the land tax alone, or the land and slave-tax, or any other specified tax, should be taken as the criterion of property. The gentleman from Greene had especially objected that the tax raised from Billiard Tables was included in the aggregate amount of the revenue according to which representation was apportioned. If the gentleman meant only to declare his opinion that these Tables should be suppressed, and not made the subjects of taxation, he cordially concurred with him. He thought that other and much more fit subjects of revenue than vice and idleness, might be found—but the objection to the amount of the revenue thus collected being considered in the taxation of the counties, appeared to him rather overstrained. In the first place, it could not be complained of as unjust to *the East*, as the tax according to our returns, was collected *there* only; and, in the last place, though a tax on vice and dissipation, it still indicated an ability to pay.

But there are peculiar reasons why taxation should be made the basis of representation in one branch at least of the Legislature. Alarm is expressed, and no doubt honestly felt, by a portion of the intelligent and reflecting community near the seaboard, lest the West, on getting the ascendancy, might be tempted to embark in wild schemes of Internal Improvements. He verily believed these fears were extravagant. He believed that the best interests of the country called aloud for some energetic plan by which the hidden resources of our country might be brought to light and its sleeping energies roused into action.—He felt a strong conviction, that the cautious habits of this people afforded a reasonable security that *wild* and *expensive* schemes would not be speedily adopted, whether the balance of power remained in the East, or should be divided between the East and West. The great danger was of continued inaction, and not of rash enterprise. But it was fair and reasonable to reserve a check upon improvidence, in case this lethargy should be thrown off, and the State determine to improve its physical condition.—This reasonable check would be found in requiring for every plan the sanction of a House which represented the tax-payers of the State. The tax-payers would then be also the revenue disbursers. It was unsafe, that one set of men should contribute the public funds, and another set direct its distribution. Taxation and representation should go hand in hand.

There is no individual acquainted with the administration of the financial laws of our State, who will not admit that it demands correction. In vain have these laws endeavored to make taxes equal, while those who administer the laws have an interest in rendering them unequal. It is known that no uniform rule prevails throughout the country in assessing the value of lands, and each county seems to strive with its neighbor in bringing down the assessment, so as to lessen its share of contribution to the

public necessities. The sheriffs in the respective counties have also temptations to overlook subjects of taxation, and facilities in withholding what is actually received for taxes. It is not unusual to see the contribution of a county to the public revenue vary fifty per cent. when a change is made from an incapable or careless Sheriff to an officer of a different character. These matters certainly require Legislative remedies; but it is among the advantages which will result from adopting taxation as the ratio of representation, that it will inspire the people and the magistrates of every county with an animated interest in the fair assessment, collection and payment of the taxes of their county. Integrity will be strengthened, when it is thus rewarded. The avarice which now tempts to the withholding of the public dues, will be counteracted by the desire of political weight. Laws are always most faithfully executed, when the public feeling goes along with them.

Satisfied, then, that the basis of representation in the Senate is in itself reasonable, and not subject to the reproach of being unjust to the East, let us see whether that laid down for the other House has not been improperly arraigned as unjust to the West. The only objection he had heard, was, that it adopted the principle of federal numbers, whereas it ought to have been based exclusively on free population. He knew that the latter principle had been heretofore claimed by the advocates of the West, and he hailed, as indicative of more equitable and moderate counsels, their acquiescence in the former principle. It may not be amiss to pause awhile and consider the reasons which justify this acquiescence.

The argument in favor of founding the representation in the House of Commons on the basis of free population, had been announced in the form of a syllogism. The Senate represents property, but the House of Commons represents persons. Slaves are not persons—therefore, slaves ought not to be considered in apportioning the members of the House of Commons. Arguments are not always sound because they are put into approved form. The Senate, indeed, does in the main represent property, but it does not *exclusively* represent property. Taxation is the ratio of representation there—but taxation does not arise wholly from property. A portion of the tax of every county is a poll-tax upon the free males—and so far as this tax enters into the estimate, *persons* as well as *property* affect the ratio of representation there. But, in what sense can it be said that slaves are not persons?—So invaluable is the blessing of liberty, that it is difficult to institute any comparison between him who enjoys it, and him who has it not. But, vast as is the difference between a free man and a slave, it is not equal to the infinite distance which the God of Nature has placed between a rational being and a brute. Slaves are human beings. As such they are subject to the law, regarded

as having a *will* which they may abuse to wicked purposes, and made responsible for offences against society. Why undertake to try a slave more than a horse—why, under the solemnity of oaths, investigate his guilt? Why, if he kills a man, do you not at once put him to death as you would an ox who had gored your child? Why, but because he is a human being, because he is a person? As a human being, his life is protected against the violence of his own master, and his person protected against the violence of all. Although a slave is an article of property, he is nevertheless a member of society—and, like other members of society, constitutes a part of its strength, or of its weakness. Political necessity will not permit *him* to exercise the elective franchise; but, in apportioning representatives to population, he cannot be overlooked, for he is a part of the population. Slaves constitute an anomalous class, having the mixed character of persons and of property. As such they are viewed in the Constitution of the United States; and the rule of representation now proposed, is called the Federal rule, because it prevails there. After much controversy, it was finally arranged that, in apportioning representation under that Constitution, three-fifths of the slaves should be added to the number of the free citizens of each State. North-Carolina, with all the Southern States, strenuously contended for this rule, and surely it is now too late for her to insist that the rule was wholly wrong, and has been iniquitously enforced by her against the Eastern and Middle States of the Union.

If the dissatisfaction caused by unequal representation, be so extensive and so well founded, as indispensably to require the correction of this evil; if the duty of reform has been enjoined upon us by the people, and we have solemnly sworn not to evade its performance; and if we find the principles of the proposed adjustment fair and equitable, we ought not to hesitate to carry out these principles into full execution. The organic Act under which we are assembled, commands that the number of the Senate should not be less than thirty-four, nor more than fifty—and *that* of the House of Commons not less than ninety, nor more than one hundred and twenty. We have already decided, by an almost unanimous voice, to support the recommendation of the Committee, so far as it advises that the Senate shall consist of fifty, but their recommendation that the other House consist of one hundred and twenty, is violently opposed. Upon the best consideration, he did think, and therefore was obliged to say, that this opposition was unreasonable. The people had fixed a *maximum* and a *minimum* for each House—fifty, and thirty-four, for the House which represents property—one hundred and twenty, and ninety, for the House which represents population. It was impossible not to admit that the *maximum* and *minimum* in the two Houses must have been selected upon the belief that they *severally* stand in a proper relation to each other. So far as the will

of the people is declared in this adjustment, obedience is our duty. Where it is not explicitly declared, but may nevertheless be satisfactorily collected, we should endeavor faithfully to follow it out. We have resolved to take the *maximum* for the Senate. Can we do otherwise than adopt the *maximum* also for the House of Commons, without violating the *spirit* of the adjustment? What reason can be assigned for disregarding the proportion which is so plainly marked out in the Act?

It had been objected, that the proportion was different from that which now obtained in the two branches of our Legislature, for that *they* stand to each other in the relation of one to two.—But if the people have indicated that a different proportion should prevail—if they have said that the Senate might be reduced to thirty-four, but if so, the House of Commons should consist of *at least* ninety—that the latter House might extend to one hundred and twenty, but if so, the former should nevertheless *not exceed* fifty; are we, whose province it is to execute this plan, to sit in judgment upon it, and practically to disregard it? He admitted that it was in our *power*, under the words of the Act, to pay no attention to the proportions set forth in it—to adopt the *maximum* for the Senate, and the *minimum* for the House of Commons. But, were we to do so, he felt a full conviction that we should but keep the word of promise to the ear and break it to the sense.—With this conviction, it was unnecessary for him to point out any reason why the relative proportions, as they now exist between the two Houses, had been to some extent departed from in the plan of adjustment recommended by the people. But there occurred to him one so plain and irresistible, that he could not forbear from mentioning it. The Senate, representing property, was constituted on the principle of taxation—and this principle was carried out *thoroughly* and without exception. But the principle of numbers on which the House of Commons was based, was not carried out *thoroughly*. It was subjected to an exception very proper in itself, but which practically narrowed the range of its operation. To prevent too violent a shock to long continued usages, the Act provided that every county in the State, whatever might be its *population*, should have at least one member. He repeated that this was a very proper provision, and one, without which, he never could have yielded a cheerful assent to the proposed arrangement; but it was a provision, which, in practice, greatly affected the basis of representation. There were sixty-five counties in the State, each of which, without regard to its numbers, must have a member. If the House of Commons, then, consisted of sixty-five members only, the *exception* would destroy the *rule* altogether, and each county would be equally represented. Thus it will be seen that the practical operation of the rule is not upon the whole number of members in that House, but only on the excess of that number over sixty-five. Make the

number ninety, and the principle will be felt only in the apportionment of twenty-five. Make it, as proposed, one hundred and twenty, and it is felt but in the apportionment of fifty-five—and *this* is but five more than the entire number of your Senate.—Where, then, is the ground for this clamor?

But it is urged that the number one hundred will give the East for the present a greater relative strength than the number one hundred and twenty. This may be a conclusive argument (supposing it to be founded in fact) with those who came here not with the purpose of allaying the strife which has distracted our land, but in order to resist to the full extent of their power, whatever may affect the present state of things. He had not himself examined so as to be able to pronounce confidently as to the result of the calculations which were made. He believed, however, that at the number 100, the proportion in the House of Commons would stand, considering Robeson and Person as Western counties, 47 to 53—considering them as neutral, 47 to 51—as Eastern, 49 to 50—and that at the number 120, the proportion would be, considering Robeson and Person as Western counties, 55 to 65—as neutral, 55 to 61—and as Eastern, 59 to 61. In both cases there would be a small majority on the side of the West, which could not be varied more than *four*, by adopting either of the proposed numbers. It did seem to him any thing but wisdom to consider this difference as furnishing a justification to gentlemen from the East for the prodigious alarm they had sounded, much less for a departure from the spirit of the rule of adjustment enjoined upon the Convention. In the Senate, as fixed at 50, there is a clear majority of at least four, and probably six members on the part of the East—and no act of *legislation* can be passed, but by the *concurrent* will of both Houses. *Joint* action never takes place but in making appointments to office—and nothing can more clearly shew that appointments are not governed merely by sectional feelings, than the fact that, with an undisputed majority on the part of the East, more than *half* of the prominent appointments made by the Legislature are actually filled by Western men.—The fact is, that when appointments take place, the disturbing causes which agitate the Legislature, usually arise from *party politics*—from *Federal* and not *State* divisions; and these, in consequence of the prevailing influence of the General Government, are to be found East as well as West of Raleigh.

But, is it possible that, in our deliberations upon this subject, we should be governed by the paltry considerations of *temporary* advantage? The arrangement now to be made is for perpetuity, for us and our posterity—never to be altered, unless the people should again agree, and he trusted they would not for a century, to change their Constitution. Make it right, so that it may last. Make it right, for the effect of it will be to obliterate those very sectional divisions which have heretofore prevailed. When the

representation in both Houses shall be based upon approved principles, it will be impossible much longer to keep up these divisions. There will be nothing for East and West to differ about *as* East and West. Other parties—other divisions may arise, but the existing differences must ultimately vanish with the causes which created them. Make it right, for whatever may be its immediate operation, it baffles all skill at calculation to foretell what will be its effects a few years hence. Wealth will change. Numbers will change. The character of the population will change. Towards the West there are comparatively but few slaves; but, as their mining operations shall advance, and their manufactures shall be extended, slaves will be multiplied in that region, for it was a law of Nature that men would not work when they could get others to work for them. It should be borne in mind, too, that there is a large territory within the limits of the State occupied by the Cherokees, to which the Indian title must be extinguished within a year or two. When this territory shall be given up to us, it will sustain a population sufficient for several counties; and as the number of our Legislature, which we now establish, is not to change, it should be made large enough to be accommodated to the then increased numbers of our people.

He saw, then, no cause to disapprove of any part of the Report presented by the Committee of twenty-six. There were, however, some matters intimately connected with the subject matter of that Report, in regard to which it was silent—but which must be settled by the Convention. The Act to which he had so frequently referred, provided that no county should be divided in the formation of a Senatorial district—but with respect to the apportionment of the members of the House of Commons, it gave the Convention a more unlimited power. It directed that with respect to these members, (except those from the towns which were to be excluded in whole or in part from the Convention,) they should be apportioned upon the rule of federal numbers, “to be elected by *counties or districts, or both.*” This part of the Act had given him great difficulty, and although he was by no means confident that he had ultimately adopted the proper construction of it, he was desirous to submit that construction for the deliberate examination of the Convention. An exact apportionment according to numbers could be made in one way only—by dividing the whole State into election districts containing equal population, without regard to the separate existence of counties, or to the habitudes arising from them, which had so long bound their citizens together. This would be such a violent disruption of ancient ties—such an inroad upon the usages of the country from its first settlement—that he could not believe that it was contemplated. If however, he entertained any doubts upon this point, they were repelled by the provision which followed: “but *each* county shall have at least *one* member in the

House of Commons, although it may not contain the requisite ratio of population." Such a provision never would have been made, if the whole State were designed to be broken up into equal districts. An election by counties or by districts, or by both, is placed at your discretion, and the basis of representation is federal numbers. An apportionment by counties or by districts, other than that which we have seen could not have been contemplated, must leave large fractions. Not one county can be found which has *precisely* the ratio, or twice or three times the ratio of representation. The enquiry is, what must be done with these excesses? They cannot be disregarded—for they form in the aggregate a large part of the population of the State—and no disposition can be made of them by counties, or by districts, or by both, which shall be in precise conformity with the prescribed basis of representation. The Legislature and the People could not intend to prescribe to the Convention an impracticable duty. He therefore interpreted the Act as laying down the rule of federal numbers as the *general* principle for their action, giving them a discretion to apply it to counties or districts, or both, as should appear to them most conducive to the public weal. But two plans have been suggested. The one was to assign to each county the number of members to which it was entitled, according to the ratio of representation, disregarding its excess—and then to constitute districts of the counties having excesses, and assign to these the additional members, in the election of which the citizens of all these counties should vote. For instance, suppose the ratio of representation to be fixed at 6,500—the county of Orange, having a federal population of 20,958, will be entitled to three members, and then have an unrepresented fraction of 1,458; and the county of Caswell, containing 12,611, will be entitled to one member, and have an unrepresented excess of 6,111. These excesses added together, amounting to more than the ratio of representation, the two counties might then be formed into a district, which district should elect an additional member. The more this plan was examined, the more objectionable it would appear. Instead of carrying out to its fair, practical extent, the principle of apportioning representation to numbers, it perverted and violated the principle. The unrepresented fraction of Caswell was 6,111—that of Orange, but 1,458—and to represent these combined fractions, Orange having already three members, was to vote with Caswell having but one, for the member to the district. Now, as Orange had more than three times the number of voters of Caswell, she could *certainly* control this election, and thus secure to her fraction of 1,458, a representation, while the 6,111 of Caswell, would in truth have *none*. The relative proportions of Orange and Caswell, as to federal numbers, are as *one and two-thirds* to *one*, and the proportions of their representation would then be as *four* to *one*.—

This would be apportioning representation to numbers in a very singular way. The plan was objectionable, also, because of its complexity. There would be distinct sets of members in the House, some representing particular counties, and others representing these same counties in combination with others—different *orders* in truth, reaching one above the other in the scale of importance. Besides, in many cases, in order to save a great number of small fractions, there must be occasionally half a dozen counties put together, and this, in elections to the General Assembly, appeared to him a mockery of the true principle of representation. There may be extraordinary cases, in which the people can vote in large masses with some degree of intelligence. These are, when the magnitude of the trust sought brings to their notice, men whose fame is wide spread and broadly established. But in general, the true principle of the elective franchise, is, to afford to the constituents an opportunity of selecting an agent whom they *personally* know, and whom, from that knowledge, they are willing to trust.

Deeming, then, this plan inadmissible, there was but one other which could be adopted. This was to give the additional members to the counties respectively, which had the largest excesses of unrepresented population. Absolute precision in apportioning representation to numbers, was unattainable—this plan approached it as nearly as was practicable, and the rule laid down was intended for practical purposes. Although he had come to this conclusion from an examination of the Convention Act, unaided by any intrinsic help, he was gratified to discover, that in the Constitutions of several of the States, in which numbers are made the basis of representation, a similar mode of representing the fractions had obtained. The same principle with respect to the representation of the excesses, somewhat modified in its application, will be found in the Constitutions of Mississippi and Alabama.

He had heard with great respect the suggestion of the gentleman from Rowan, (Mr. Fisher,) that the benefit of the fractions should be given to small rather than to large counties, and he wished to follow it so far as the rule prescribed by the Convention Act would permit. A county entitled to three members, with an unrepresented surplus of population, sustains a much smaller loss in *proportion*, than a county entitled to one member, and having also an excess not represented. But the Act did not leave the Convention at liberty to dispose of these excesses at pleasure. It declared that the members should be allotted to counties *according to their respective numbers*; and he felt himself bound to apply this rule throughout, whatever might be the relative numbers of the several counties. But there was an arrangement which he thought the Convention could rightfully make, and which would have the happiest effect in correcting the

artificial inequality resulting from application of the rule to the larger counties, and would be attended by many other salutary consequences. He was solicitous to bring this to the notice of the Convention at this early day, so that if there were well founded objections to it, they might be stated and deliberately considered. The members of the House of Commons were "to be elected by *counties or districts, or both*, according to their federal population." For the reasons already stated, he preferred that the election should in *general* be by counties, but in regard to the counties which would acquire, under the amended Constitution, a greater number of members than they had heretofore been entitled to, he was disposed to adopt the principle of election *in them by districts*. Such an arrangement would have a happy effect in partially reconciling the citizens of those counties which were deprived of all but one member, to a privation which could not but be unpleasant to them. The gain of the large counties was at their expense. If these large counties were districted, and the inhabitants of each district voted for a single member, the same number of people, in the large and in the small counties, would exercise the same privilege and wield the same power, while the inequality of representation between the different sections of the State would be corrected. To remove discontent, this Convention had been called. Its purposes could not be effected without giving more or less of dissatisfaction to those counties whose power was to be curtailed. But unquestionably it was sound policy to introduce as little discontent into the new system, as was consistent with the objects which it was our duty to accomplish. He was perfectly convinced, too, that there was no mode of election so fair or so well calculated to introduce into the Legislative body intelligent and upright members, as that by which the voters were brought to designate the *very individual* whom they preferred to *all others*. Where there are large election districts, and the people in mass vote for many representatives, there are abundant opportunities presented for combination, management and intrigue, among the candidates, and thus causing a real minority to pass for a majority of the electors. It was desirable always, that the electors should, if possible, vote upon personal knowledge. In an extensive district they could not well do so, unless the candidates travelled to and fro and subjected themselves to the observation of the People, and mingled familiarly with them in every part of it.— But the necessity of such a course would often prevent the best men from making a tender of their services. If the choice were to be made by the immediate neighborhood, they could confidently rely for success on the intimate knowledge which their neighbors had of their qualifications. But they could not abandon their regular occupations without a sacrifice of domestic duties, nor take up the *profession* of canvassers for public favor, without

a sacrifice of feeling and of conscience. The field must be abandoned to what he verily believed to be the most mischievous of human beings—politicians by trade—who thrive and prosper by flattery and trick and falsehood—by pandering to the worst passions and prejudices of poor human nature—and who, under the pretence of ardent love for the People, care for nothing, and seek for nothing, but their own advancement. Those large electoral districts, independently of the objections already mentioned, were calculated to stifle, rather than to give a correct expression of the will of the People. A bare majority might elect a ticket of four members, who would misrepresent the views and opinions and wishes of as many individuals as in other counties would be entitled to two members. There is such a thing as county oppression, as well as State oppression or Federal oppression, and he knew no remedy for it so efficacious as to afford to the oppressed an opportunity to raise their voice and represent their grievances to the body that could give redress. He did not propose to introduce this subdivision of districts into those counties which under the new arrangement would elect but two members, and for obvious reasons. There was less danger of unfairness, of combination, of driving men of merit from the field of competition, of suppression of the public sentiment, in these, than in larger counties; and above all, these counties gained *nothing* by the new arrangement, and it seemed to him unwise, unnecessarily to disturb their existing institutions. But the counties which were to gain by the change, could not complain if they acquired this gain with such modifications as in no degree impaired their just portion of power, and at the same time rendered it less obnoxious to the rest of the community, and more consistent with the interests of the People of the whole State.

These were the general views which he entertained on the *main* subject referred to the Convention, the reform of Representation in the two Houses of the General Assembly. This was the subject on which the voice of the people was imperative, and the action of the Convention indispensable. Until this subject was settled, it was idle to consider of the discretionary amendments. Unless this were so settled as to command the approbation of the people, nothing could be done for the public good.—Professions were but of little worth, and men were often most prodigal in the use of professions who least felt the sentiments to which they gave utterance. But, he must be permitted to say, that there was no individual in this body who felt a more ardent and intense desire than himself, that our deliberations and exertions here might attract to us the blessing pronounced upon the peace-makers—a more ardent and intense desire, that after meriting this benediction, we might proceed to the consideration of the other subjects submitted to us with purity of purpose, elevated

views, and cautious wisdom—a more ardent and intense desire that the result of our labors might ultimately tend to the physical, intellectual and moral improvement of North-Carolina.

Some gentlemen had pronounced animated eulogiums upon the State, while others had mourned over its depressed condition. There was much in North-Carolina to respect and to love. In no land was justice administered with greater purity, and in no State of the Union was there less of the violence and malevolence and corruption of faction. In none was there a more orderly and kind and well disposed population. In none more republican simplicity and equality of condition. It was emphatically the Southern land of steady habits. But he loved his country too sincerely to permit him to shut his eyes upon her defects or her wants. He wished to serve, and disdained to flatter her. The laws of Nature forbade North Carolina from attaining great commercial eminence, or rivalling in wealth some of the other States of the Confederacy. But it was impossible not to regret that her resources remained as yet almost undeveloped. Who could see, without pain, the continued drain of emigration which was carrying away to more favored regions, her most enterprising and industrious citizens? Her signs were the reverse of those which were seen near the habitation of the lion in the fable. The tracks all proceeded from, there were none coming to the State. Who but must wish that her disconnected fragments were brought together by those facilities of communication which might make them feel and act as one people in interest and affection? Much, very much might be done for the improvement of her physical condition.— But there was another point of view in which he most earnestly desired the improvement of the State. If the only sure foundation of rational liberty be the virtue of the people, the best safeguard of that liberty is to be found in their intelligence. This alone can secure it against the wicked arts of oligarchs and demagogues. Not a little had been lately done in the cause of Education; and he hailed, with delight, the Institutions which were springing up in various parts of the country for the instruction of youth. But no efficient plans had yet been adopted for diffusing information throughout the land, and bringing it home to the poor and the humble. Many a spark of genius is now suffered to become extinct which might be kindled into a bright and glorious flame. Many an intellectual gem, of purest ray, is permitted to remain buried in the caverns of obscurity and indigence. If righteousness exalteth a nation, moral and religious culture should sustain and cherish it.

It was vain to hope that what ought to be done for the physical or intellectual and moral advancement of the State, could ever be accomplished, without the united efforts of the good and the wise—without liberal councils, and systematic co-operation.— Many an anxious, many a painful hour had he spent in reflecting

on the divided and distracted state of his country. Earnestly had he wished that he might live to see the day when, instead of wasting our energies in sectional broils, instead of waging against each other a foolish and wicked contest, in which victory was without glory, and defeat without consolation, we could, like a band of brothers, devote all our aspirations and all our efforts to our country's cause. Possibly the wish so long cherished might never be realized. Indeed, he must say that he was not over sanguine in this expectation. But he would not despair. He would not, he could not abandon the hope that harmony and good will were about to be restored. He did hope, that under this new order of things—under these favorable auspices, his beloved State was about to become all that her sons should wish her to be—that retaining the excellencies she now possessed—her love of liberty and order—her steady, kind, republican and industrious population—her simple and unobtrusive virtues—there might be added to her whatever was best fitted to raise, and decorate, and ennoble her character.

Mr. McQUEEN rose and said, he should feel himself but poorly qualified at any time to requite the Convention for any degree of patience which it might think proper to bestow upon such remarks as his sense of duty impelled him from time to time to present for its consideration; but the very eloquent and impressive Speech with which it had been just edified and entertained by the gentleman from Craven (Mr. Gaston) had well nigh caused him to despair of acquiring a just portion of its indulgence on the present occasion.

But as the subject now under consideration, said Mr. McQ. is one which involves consequences which I believe to be intimately associated with the future prosperity of the State, and with the interests of those of whose feelings and wishes I am the humble organ on this floor, I will permit no temporary disadvantage to stifle the utterance of my present convictions.

The Report of the Committee has recommended 50 as the number of members which shall compose the future Senate of the State, and 120 as the number which shall constitute the future House of Commons. The number recommended by the Committee for the Senate, which is the highest we could have adopted, agreeably to the charter under which we are now acting, appeared on the introduction of the Report, to be almost universally acceptable to the Convention, and was accordingly acceded to with but little disagreement. Now it has been proposed to strike out 120, the number designated for the House of Commons, and to insert 100. It appeared to him very conclusively, that the highest number for the Senate should be followed by the highest number for the House of Commons, as a correlative term; for, if the representation in the Senate be founded on property, and that in the Commons on federal numbers, these respective bases should

be clearly carried out and reflected in the organization of the respective branches of the Legislature. But if 50 should be the number fixed for the Senate, as a proper index to the wealth and property of the State, and 100 should be chosen for the House of Commons, instead of 120, then, we are not presented with a clear reflection of the federal population of the State, in the House of Commons; but with a number of members reposing on some indefinite basis, the nature of which he could not clearly comprehend.

It has been observed, said Mr. McQ. by an eminent citizen of this country, (Mr. Webster) on an occasion similar to that on which we have been summoned to act, that in all revisions of fundamental systems, the strictest reference should be made to the ancient usages and habitudes of a people, to the end, that their feelings might not be suddenly diverted from the channel in which they have been long accustomed to flow, and the stability of the Government endangered by the loss of their affections. For a Government, to be durable, must be so constructed as to interest the majority of the people in its continuance and preservation. If it should not, it will sooner or later become the victim of those popular commotions, which have accelerated the march of all Republics in the road to perdition, which have lost their position in the family of nations.

It should therefore be the primary aspiration of every gentleman on this floor, in revising our present Constitution, to mould it after such fashion as will conciliate the affections of the people; for, if any violence should be offered to their regard for the Constitution, either in stripping them of too large a portion of that political power which they now possess, or, in impairing the relative proportions of the respective departments of the Legislature, the fruit of our deliberations will be scattered to the four winds, and a cloud of discontent will darken the face of our political firmament, which may break in ruin upon the population of this State.

The people of this State have been long accustomed to the enjoyment of political power, distributed in certain prescribed quantities, and to a Senate and House of Commons, arranged after a certain mode. Each county in the State has heretofore had its Senator and two Commoners, and the aggregate of the Senate has hitherto been 65 members—that of the House of Commons 136—a little more than two to one; which arrangement certainly presented a Senate decidedly too large in proportion to the magnitude of the House of Commons. Well, the less we reduce the individual share of representation possessed by each county, the less we offend the local interest of each; and, the less we reduce the magnitude of each branch of the Legislature, the less we disturb their affections for a system, to which they have been long accustomed. But there is one thing very certain, that

we should so far comply with the universal example of almost all free Governments on earth, as to adapt the arrangement of the respective branches of the Legislature, in the selection of numbers, to the ends for which they were designed. The Senate has been designed, not for the purpose of assigning a preponderance to the owners of property in the legislation of the country, but for the purpose of acting as a council of revision over the proceedings of the House of Commons, and of checking any sudden movement which it might make, prejudicial to the interests of property. As then, there is no necessity which requires that it should embrace a large number of members, we should reduce it to as small a compass, in comparison with the House of Commons, as our circumstances will permit; but the House of Commons, which is intended to guard the personal rights, interests and liberties of the people, should be left sufficiently comprehensive to embrace a large share of that popular feeling which is the best preservation of the spirit and substance of public liberty.

It has been said by the gentleman from Greene (Mr. Speight), that if 120 is chosen as the number for the House of Commons, that it will give to the West a majority in that branch, which may tax the landed property of the Eastern part of the State *ad libitum*; for, that notwithstanding the East has a majority in the Senate, at present, which will constitute a check to such a course of things as long as that majority remains, yet, that the East has no assurance that she will continue to retain this majority in the Senate. There is no doubt but the East will retain that majority, unless the value of real estate in the West should be so largely enhanced by the beneficial influence of some comprehensive system of Internal Improvements, as to increase her weight in the Senate; and if the East should lose her weight in the Senate, by any such change in our condition, I have too good an opinion of the gentleman's patriotism and good feeling, to believe, for a moment, that he would cherish any repinings at the expanding picture of a neighbor's prosperity.

But there is, said Mr. M'Queen, no circumstance which can possibly increase the weight of the West in the Senate, without being met, at the same time, by a countervailing increase of the weight of the East in the same body; for, if the resources of the West should be developed to their *maximum* extent, by the best system of Internal Improvements which the wisdom of man could devise, we have the demonstration of facts, to prove, that there is an almost illimitable range of land in the East, which will be sooner or later brought under the dominion of cultivation by the hand of enterprize—that it is immensely fertile, and that it will inevitably increase the weight of the East in the Senate, when this state of things rolls around. So that there is no ground for the apprehension expressed by the gentleman from Greene. That gentleman, however, stated in his last speech, which (like the

dying notes of the swan, which are said in fabulous history to be its sweetest,) was decidedly his best, that a due regard to economy, in the expenditures of the Government, enjoins it upon us to fix on 100 as the number which shall constitute the House of Commons, instead of 120. The county of Greene, which that gentleman represents, will obtain its one representative in the House of Commons, if 100 should be selected as the number, and it will be entitled to no more than one member if 120 should be chosen; so, it cannot be injured by adopting 100, agreeably to our present ratio, and it cannot gain by adopting 120. But, I should like very much to know, whether or not the gentleman would have such a keen relish for economy, provided the county of Greene could gain an additional member by adopting 120 as the number for the House of Commons. Now, it will be recollected, that the gentleman very promptly acceded, a few days since, to the proposition made by the Committee, to adopt 50 for the Senate, which was the largest number we were authorised to take. Well, if a due regard to economy did not then urge the gentleman to adopt a smaller number than fifty for the Senate, it is somewhat singular, that it should now urge him to take a smaller number than 120, for the House of Commons.

But, sir, it appears to me, that a judicious spirit of conformity to the most approved modes of Legislative arrangement which have been ratified by the experience of past ages, would admonish us to choose 120 as the number which is to constitute the future House of Commons—as the correlative number of 50, which has been adopted for the Senate. Property requires but few to guard it in the path of Legislation; but public liberty may be pierced through such an infinite variety of channels, that it imperiously requires the unceasing vigilance of a multitude of sentinels. He had uniformly been accustomed to regard the inflexible devotion of the popular branch of the Legislature to the rights of the people, as the only abiding hope and refuge of their liberties, on this side of the grave. It is more rational to search for the lively operation of the spirit of liberty in a House of Commons, legitimately and properly constructed, than in any other division of the Government whatever; for, it is the appointed safeguard of public liberty. It has its other duties to perform, it is certain; but the chief end of the creation of a House of Commons, was to circle round the rights and liberties of the people; and, that any duty will be best performed by that individual, or body of individuals, upon whom the obligation to execute it descends with a special degree of force. The House of Commons, too, is uniformly, in this country, indebted to the great mass of the people for its political being, and not to those entitled to the right of suffrage by any property qualification. It will be more apt, then, on the score of affection, gratitude and sympathy of feeling, to look with a jealous eye on any invasion of public liberty, than any other Assembly.

But, if the selection of numbers for the House of Commons should be arbitrarily made, and without making it large enough to embrace an adequate portion of that popular feeling, which is the best safeguard of popular rights, then, it may not only fail of producing the end for which it has been originally designed, but it may be converted into a fatal instrument of mischief.

If an artizan proposes to introduce any fresh improvement in a machine, which he has long been in the habit of using, if he is an ingenious man, he can assign his reasons for his conduct, so as to render the matter explicit and satisfactory to others. Or, if a farmer proposes to depart from some ancient and profitable mode of tilling the earth, if he was versed in his craft, he certainly could tell wherefore he fancied the departure. For, if an artizan should add some new spring to a machine, from a mere arbitrary fancy of his own, and without adapting it to any established principle, if the machine perform its functions afterwards, it will be entirely the result of accident, and not of the fitness of things to a given end. So it would be with the physician, and so it would be with the farmer. But, Mr. Chairman, we have waited with great patience to learn, why 100 members would make a more efficient House of Commons than any other number within the range of computation, and why 120 would not answer under any possible circumstances; but we have waited thus far in vain; for the reasons we have heard advanced in favor of 100, amount pretty much to the same thing with the reason which is assigned by individuals in the morning of life, for many of their youthful freaks. Ask a schoolboy, why he strewed crackers over the floor of the school-room, during the hour of prayer, or why he smutted the face of his classmate, or why he planted pins in the seat usually occupied by his instructor, and his answer will most likely be, that he did it because he did do it. The reason rendered for adopting 100 in preference to all others, is just about as satisfactory as the schoolboy's; it is a mere arbitrary selection; it is not chosen because it is likely to advance the prosperity and glory of the State, or because it will improve the future elements of our Legislation, or because it will be likely to introduce a spirit of harmony and concert within the Legislative Hall of the State; but because it is not 120, or 110, or 105, or 101. And why is 120 so hideous in its aspect? The reason why it is not acceptable, is just about as satisfactory as that rendered by Oliver Cromwell for not liking a certain gentleman who frequented his Court—he did not like him, notwithstanding he was a good fellow in other respects, because his gravity of aspect was increased rather than diminished by a good jest.

It had not been urged, so far as he could remember, in this discussion, that 120 members would constitute an unwieldy House of Commons; that it would violate any principle of jus-

tice, in the apportionment of representation amongst the counties, or that it would do any violence to the feelings of the country. Neither of these objections could be urged against that number, for those who object to the choice of that number so strenuously now, have uniformly insisted heretofore, that there was no necessity for reducing the number of members in either House—that the number of members was not greater than was required by the exigencies of the State, and that it would be almost a sin, without a name, to touch it at all. Before 50 was designated as the number of members which should constitute the future Senate of the State, we might have rightfully paused before we determined on the choice of any particular number for the House of Commons—for we would then have begun at the wrong end—we would have been destitute of guide posts—we would have wanted that clear definition of the magnitude of the Senate, which must inevitably regulate the size of the House of Commons. But, sir, once the number 50 has been chosen for the Senate, it appears to me that the path of duty is as clear to us as the path of the sun in the heavens, at mid-day. It appears conclusive with me, that the largest possible number in the Commons should follow the largest possible number in the Senate, as naturally as the shadow follows the body. Why was the largest number chosen for the Senate? Because we did not wish to make a violent inroad upon the ancient and long established usages of the people, by suddenly taking from them one half of their accustomed representation. It would seem to me, that we should be exceedingly loth to change the fashion of an instrument or the arrangement of a machine, which had uniformly answered every purpose for which it had been originally designed. If a machine has been universally arranged after a certain mode, and has proved efficient in all its operations, we have a right to infer that its efficiency was the result of that particular plan, and that it would not work as well, if arranged in any other way. I think this reasoning very conclusive. How is the fact in regard to the arrangement of the Legislative Assemblies of different countries throughout the world, which have been lighted up by the torch of liberty? We find that, without an exception to the rule, the Senate has universally embraced a select body of men as representing the interest of property, and that the popular branch of the Legislature has just as uniformly embraced a more extended sphere of numbers as representing the interests of public liberty. Why this uniformity of arrangement throughout the world? Have we not the strongest reasons for believing, that it has resulted from fixed principles in political science which were deemed essential to the interests of public liberty—and is not this belief confirmed by the fact, that this arrangement has constantly squared with the prosperity of every country in which it has been adopted? Look at the comparative

numbers contained in the Senate and in the House of Commons throughout the United States. There is no State in the Union in which the House of Commons falls short of containing twice as many members as the Senate; in some of them four or five times the number. This is the case in the Senate and House of Representatives of the United States—and in Massachusetts, the House of Representatives contains nearly 13 times as many members as the Senate. Why have these different Legislative Assemblies been so arranged as to embrace a small Senate and a numerous House of Commons? Was it the result of accident, or was it the result of experience, the wisdom of which has been tested whilst ages have been rolling away? It was the result of a wise and provident arrangement.

But, the gentleman from Wake (Mr. Seawell) has informed us, with a tone of authority, that we have no right to consult the examples of other States in making *our* political arrangements. If the different States in the Union were like the gentleman himself, without any permanent opinions; if they were impelled by one breeze to-day, and by another to-morrow, like a leaf tossed about upon the surface of the waters, then this might be considered sage doctrine; but, inasmuch as they have clearly testified to us the possession of certain established convictions, on the propriety of accepting certain political principles, and of rejecting others, we are bound to regard such of the arrangements of other communities, which have been sanctioned by the consecrating touch of time, and by the magnitude of the benefits which they have been found to confer on the human race. Even the lights of British history, and the authority of British example, were consulted by the Sages of the Revolution, at the original formation of our Government; and if we were largely instructed by the usages of a Government, from the thralldom of whose customs we were peculiarly desirous to break, as founded on principles adverse in some degree to the rights of man, it is much more natural, that we should survey with a partial eye, the arrangements of our sister communities, more especially, when those arrangements, after a lapse of years, have been found tributary to the happiness of man. Even the opinion of an eminent man in any country, which has been deliberately expressed on any question of policy affecting the rights of the people, falls with impressive weight on the minds of a deliberative Assembly; and the Fundamental Charters of every State, embrace not merely the opinions of one, but of many eminent men, in regard to the propriety or impropriety of adopting any particular system of Government. It is true, the example of no State can make that right which is palpably wrong, but in a matter of probable expediency, like that now before us, I think that the comparative numbers adopted for the Senate and House of Commons, by the several States in this Confederacy, should fall with very impressive weight on our

minds, in selecting the number of which our own Senate and House of Commons shall be hereafter composed ; more especially, when we have seen the ends of political justice effectually and happily served by the numbers which they have thus selected.

There may be something magical, however, about the number 100, which it has been proposed to insert instead of 120, which will not strike the inquirer on the first glance. There are a great many small counties in the State, which will obtain one member in the House of Commons, though we should take the lowest number, 90 ; but which cannot get an additional member, though you raise the number to 120. Well then, they have no interest, so far as they are concerned, in raising the number at all. They would as soon take 90 as 120, for their power will be the same with either of the numbers. But there are many of the large counties which will obtain an additional member, by adopting 120 instead of 100. But those small counties, which have not the number necessary to procure two members under any given ratio, should be too magnanimous to reject a proper number, because it would further increase the power of other counties in the State.

Some solid reason can be assigned for all the leading political arrangements of this and other countries. If you are asked, why each State in the Union is entitled to two Senators, no matter how small it may be, you can give the answer very readily. If you are asked, why some of the small States in the Union have only one member of Congress, your answer will be ready. If you are asked, why England has her system of Peerage, the answer is a plain one. If you are asked, why the Electors of President and Vice-President of the U. States are elected by General Ticket, in many of the States, the answer is a plain one. If you are asked, why the District System prevails in many other States, your answer will be equally at hand. And, if you are asked, why the New-England States are divided into Townships, the answer will be very plain. But no sort of reason can be assigned for the choice of 100, in preference to 120, beyond that which is offered by a Minister for the decisions of a Tyrant—namely, that my master wills it.

It appeared very clear, then, to him, that if they conformed to the spirit of our institutions, that the House of Commons should be so constructed as to declare its intent ; if it is intended to represent the popular will, it should be so arranged, as to declare that fact.

Now, Mr. Chairman, said Mr. McQ., I have no hesitation in saying, for I think it as lucid as demonstration itself, that if 70,000 dollars be entitled to 50 members, to guard its interests and to preserve it from aggression, that the liberties and personal rights of 639,885 souls are eminently worthy of the guardian care of 120 representatives. Now, you may disguise it as you will,

70,000 dollars, which is about the amount of taxes paid in the State, has been taken as an index to the amount of property in the State, which requires the care of 50 members in the Senate. In other words, it is the bonus which has been paid by the payers of the tax as the price of 50 representatives. Now, sir, I have no disposition to contest the justness of that weight which has been conceded to property in the scale of representation; on the contrary, I acknowledge, in the broadest sense of the word, the soundness of the principle which has provided it with a haven of security and repose in the Legislative Councils of the State, for it is the principal sinew of Government; but, sir, I am only aiming to shew the correlative securities which should be provided by the Constitution for property and for popular rights and liberties, which are distinct from property altogether. It may be very true, that a vast proportion of the 639,000 souls, which constitute the federal population of the State, pay but very little in silver, in gold, or in paper, towards the support of your Government; but in war, they pay their contribution to the Government in blood, and in peace, they pay that contribution in the cultivation of your dominion, in rearing a hardy yeomanry to circle around your liberties and free institutions hereafter; and in their generous affections for the Government which presides over their destinies. And the perpetuity of your Government must find its abode in the hearts of your people; for, if you alienate their affections from it, it will, sooner or later, topple into ruins. Now, sir, I cannot imagine a more probable and successful mode of severing their affections from the Government, than by demonstrating to them, that the Government has manifested a glaring disregard for them, in the adjustment of its representation.

Most persons in this Convention were certainly aware of the inveterate prejudice which is entertained by that portion of the community who are not freeholders, towards the freehold qualification. They cordially hate and detest the discrimination which is made by the Constitution between voters for the Senate and voters for the House of Commons; and this prejudice is so palpable, that he had heard it observed here, by a gentleman of high respectability, that it was highly probable a proposition would be made to this Convention to abolish the freehold qualification entirely, provided it had been unrestricted in its powers. Now, is it a supposable case, that the non-freeholding portion of the community will be more reconciled to the freehold qualification hereafter, than they have hitherto been, by adopting 50 as the number which shall compose the Senate, and 100 as the number which shall constitute the House of Commons—which will be a comparative increase of power to the freeholder, and a comparative reduction of the power of the non-freeholder? But it may be said, however, that the people will not discover this re-

duction. This would be relying on one of the unsoundest principles, as a safeguard for an unwise and inexpedient measure, which ever was presented to the consideration of a Statesman. It would be reposing on the ignorance of the people, instead of their intelligence; but they will uniformly and inevitably discover every interference with their wonted powers. And this disproportionate reduction of power will constitute a forcible plea with designing politicians for the call of a future Convention.

It should ever be borne in mind, that freeholders have a double advantage over the voters who are not freeholders—they have a protection for their interests provided in the Senate, and they can consequently vote for a Senator; and they can also aid in filling the popular branch of the Legislature, both by their personal influence over voters and by their own votes. The probability is, then, that they are the sources of power in both branches of the Legislature; they choose the members of the Senate *directly* by their own votes, and they choose the members of the House of Commons *indirectly*, by the combined power of their votes and personal influence, notwithstanding the non-freeholders constitute a majority of the voters. Thus they have the whole power of the country in their hands. They may be said to choose the members of the Legislature, and whatever officers the Legislature may appoint.

I would address a few remarks to my friends from the smaller counties of this State. They may have adopted the belief, that the measure under which we are now acting, will promote the interests of the large counties, at their expense. Now, the fact is, that no injury whatever is done to the smaller counties. No harshness will be practised upon them, but they will discover that the spirit of justice will shine conspicuously in the future distribution of the political power of the State, and that the most ample provision will be made for their safety and well being. The Convention was called under the authority of the people, for the purpose of equalizing Representation in the Councils of the State. Taxation was adopted as the basis of representation in the Senate, and population as its basis in the House of Commons. Fifty has been adopted as the number of members which is to constitute the future Senate of the State. Divide the amount of taxes paid into the Treasury of the State, by the number of members, and it leaves a ratio of something more than \$1400. Well, every county which pays a sum equal to this, will be entitled to a Senator. Those who fall a little short of it, will claim the benefit of a Senator by drawing on a wealthier adjoining county, which pays more than its ratio—and those counties which fall very far short of this ratio, will be united with their smaller neighbors in the formation of a Senatorial district.

It is perfectly clear, that the larger counties will not only obtain no more than they are justly entitled to in the Senate, but

they will contribute to sustain their weaker neighbors. And it is just as evident, that those who fall very short of the ratio, will have complete and perfect justice rendered them, for their voice will still be heard in the Senate. It is very true, that the Senator will not in future be, as he is now, uniformly located in one county in a district, and the circumstance of not embracing a Senator within its borders, every returning year, may communicate a spirit of dissatisfaction to some of the counties; but they will have an agency, and an important agency, in his election, no matter in what county of the district he may reside. He will be their representative, wherever his residence, and he will be united with them in sympathy and in feeling. The representatives from the smaller counties should bear in remembrance, that under our present system of choosing a Senator from each county in the State, that the Senator is not uniformly taken from one neighborhood in a county; he is taken first from one neighborhood and then from another; and so will he hereafter be taken, first from one county and then from another county, within the limits of a district. The rule works precisely, in reference to the distribution which will hereafter be made of the political power of the State among the different counties, upon the basis of numbers. The federal population of the State, which amounts to 640,000 souls, is the basis of representation in the House of Commons. Divide this by 120, the number of members which is now proposed to the Convention, and it will give a ratio of 5,333. Every county, then, which has a population equal to this ratio, will be justly entitled to a member, and of course will have one; those which have twice this ratio, will be justly entitled to two members, and of course will get two; and so on in the same proportion. But, to show how liberally the political rights and wants of the smaller counties have been provided for, I have only to mention the fact, that each county in the State will certainly have one member, although its federal population should not amount to one half, or even one third of the ratio. So I am convinced, that when they reflect maturely upon the matter, they will generously accede to the arrangement which is now proposed.

[Here Mr. McQ. replied at some length to the construction placed by Judge Seawell on the Convention Act; in which it was contended by the latter gentleman, that there were no obligatory powers in the Act, but that they were all left discretionary by the 15th clause of the Act. Mr. McQ. also replied to certain reflections cast by Judge Seawell on the lameness of the Convention Act and the good sense of the late Legislature; but as this portion of the debate was not connected with the main subject before the House, it has been thought proper to omit it.]

In conclusion, Mr. Chairman, said Mr. McQ. I must beg leave to remark, that I am impressed with the belief, that the

meeting of this Convention holds out a more sublime and beautiful spectacle than ever has been before presented to the moral or intellectual vision, in North-Carolina. And I as firmly believe, that it will reveal brighter and more animating prospects than ever flushed a Carolinian's heart with joy; and my heart now swells with rapture at the imperfect glimpse which I have caught of the bright beams that have occasionally darted upon the consultations we have held for the benefit of our country. I think that when this Convention surrenders its powers at the feet of those who gave it, that we will perceive the morning sun of a brighter day beaming in the firmament of our prosperity; and before five years have rolled away, that it will have shone upon our destinies in its more perfect and accomplished splendour. For if the question of Representation shall have been once settled on a permanent basis, as I fondly trust it will, the clouds which have long veiled our darling State, will disappear and fade like the mists of twilight before the rising sun; and an ever blooming spirit will be communicated to all our slumbering and palsied energies, and poor, unpretending, but unsophisticated North-Carolina will cease to reflect a borrowed splendour, and send forth a stream of light which flows from her own elements of brightness, and a stream of plenitude, which will gush from the rock of her own resources.

I can scarcely give utterance to the lively emotions of satisfaction which I have felt, not at professions of liberality which I have heard in debate, for they are the cheapest coins of humanity, but at the practical proofs of high-toned patriotism which have greeted our hearing and vision within these walls. For we have seen persons nobly resigning at the altar of their country's good and glory, that which is dearer to the human heart than is gold to the miser—I mean *political power*. We are now likely to obliterate the line of separation which has long sundered this community in twain, and parted us from each other; and I anticipate with joy the period, when we shall greet each other with delight, wherever it may be our destiny to meet, under the broad expanse of Heaven, as members of an united and affectionate community; and we will then be empowered, not merely to vanquish the obstacles which now impede the march of our prosperity, but we will be enabled to resist the energies of an armed world.

A motion was then made that the Committee rise and report the Resolution to the Convention; but, on the suggestion of Mr. GASTON, of Craven, that he wished to submit a Resolution to the Committee before it rose, the motion to rise was withdrawn.

Mr. G. then said, he would avail himself of the opportunity of offering a Resolution, which embodied two propositions; one for directing the manner of disposing of the surplus fractional members of the several counties, the other for dividing the large

counties into as many districts as they are entitled to elect members.

After some debate, the last clause of the Resolution was withdrawn for the present; the first was agreed to, as an amendment to the original Resolution, and was reported to the Convention, which rose without acting upon the Report of the Committee of the Whole. It is in the following words:

“That in making the apportionment of Representatives in the House of Commons, the ratio of representation shall be ascertained by dividing the amount of the Federal Population of the State, after deducting that comprehended within those counties which do not severally contain the one hundred and twentieth part of the entire Federal population aforesaid, by the number of Representatives less the number assigned to the said counties: that to each county containing the said ratio, and not twice the said ratio, there shall be assigned one Representative; to each county containing twice, but not three times the said ratio, there shall be assigned two Representatives, and so on progressively, and that then the remaining Representatives shall be assigned severally to the counties having the largest fractions.”

The Convention then adjourned.

FRIDAY, JUNE 19, 1835.

After Prayer by the Rev. Dr. McPheters,

Mr. GASTON, of Graven, offered the following Resolution, which he was willing should lie upon the table, to be called up whenever a convenient season should occur, during the session of the Convention:

Resolved, That it is expedient, in framing amendments to the Constitution, on the subject of Representation in the House of Commons, to provide, that, in making every apportionment, the Legislature shall divide, or cause to be divided, those counties to which more than two representatives shall be assigned, into election districts, consisting severally of contiguous territory, and of equal Federal numbers, as nearly as convenience will permit, each of which districts shall elect one representative only.

On motion, the Report of the Committee of the Whole, made yesterday, in relation to the number of members which should hereafter compose the Senate and House of Commons, was taken up, when the amendment proposed by Mr. GASTON, and agreed to in Committee of the Whole, was confirmed by the Convention. The Articles for constituting the two Houses, were then before the Convention.

Mr. SWAIN said there was a blank in the Article, (for annual or biennial sessions,) which, it seemed to him, ought to be filled up, before its final passage.

Mr. GASTON stated the question to be, whether the Article shall pass to its third reading; and it could be amended at any time previously to its final passage.

Mr. WILLIAMS, of Pitt, moved so to amend the Article in regard to districting the State, as that there should be a new arrangement of the districts only once in every *twenty*, instead of *ten* years. He thought the changes in taxation, &c. were not sufficient to warrant the disturbing of the districts oftener than every twenty years. He referred to the Congressional districts, which had not been altered for twenty-five years, to show that frequent changes were not necessary.

Mr. BRANCH did not think there was as much reason for frequent changes in the arrangement of the Senatorial districts, as there was in a re-apportionment of the House of Commons. He was not so much opposed to an alteration every ten years; but, according to the present form of the Article, we are to have a revision within *five* years, in 1841.

Mr. SHOBER thought twenty years was entirely too long a period for the districts to go without some alteration. Great changes might take place within ten years, in the value of property, in taxation, &c. One district might cease to have the requisite taxation to entitle her to a Senator—another district, in the mean time, may have swelled hers to double the amount necessary. He wished a re-assessment every ten years at least.

Mr. WELLBORN thought it best to let the ten years remain. He wished to retain the power. It could be used, or not, according to circumstances. There might be great changes in different parts of the State, in relation to taxation, in the course of ten years.

Mr. MEARES thought it might happen, that circumstances would make it advisable to have districts newly arranged once in ten years; but, at other times, when no material changes had taken place, it might seem to involve unnecessary trouble to have changes made so frequently. With respect to taxation, which had been mentioned by the gentleman from Wilkes, he thought the amount of taxes ought not to be determined by what had been paid into the Treasury in any one year—the average of five or ten successive years ought to be taken; otherwise, a few wealthy men in a small county, in order to obtain a Senator, might join together and put up a Billiard Table or two, in order to effect their object. This would be doing radical injustice to other counties.

Mr. SPEIGHT, of Greene, agreed with the gentleman from Pitt, that once in twenty years would be often enough to make a new arrangement of districts for the election of Senators; but was of opinion, that the regulation respecting the House of Commons should stand as it is. He thought, also, with the gentleman from Sampson, that in arranging the Election districts for

Senators, the arrangement of the taxes for several years ought to be taken. Indeed, the permanent tax, such as the land-tax and poll-tax, ought principally to be taken into account. What was raised from Billiard Tables, Natural Curiosities, &c. were transitory and uncertain. He was, therefore, in favor of the amendment, and would be willing that the first arrangement should be made in 1851, instead of 1841.

Mr. GUINN, of Macon, opposed the motion, on the ground, that the land in his county is at present principally owned by Indians; that in a few years, it will become the property of the citizens, and the county would then become more wealthy and populous, and would expect to have a larger representation in the Councils of the State. He hoped, therefore, that so long a period as twenty years, would not be allowed to elapse, before their rights could be taken into consideration.

Mr. SPEIGHT said, the Eastern counties, as well as the Western, might suffer great injury by extending the period to twenty years, before any new arrangement of Electoral districts were made; they owned immense tracts of swamp lands, which he hoped would soon be drained, and become very valuable, and add great wealth to that portion of the State.

Mr. SWAIN did not contemplate any considerable increase in the Revenue of the State for some time to come, except what shall arise from a more correct system of giving in the land of the State for taxation, according to its real value. He thought, by due attention being paid to this subject, and to the correct management of the poll-tax, the tax on land and polls might be increased 15 per cent. in five years. There can be no doubt that the black polls are not fairly given in. A single example will serve to establish this remark. The aggregate number of slaves in this State in 1839, was 246,462. At least half of these were between the ages of twelve and fifty years, and at the rate of 20 cents each, should have contributed to the Public Treasury 24,646 dollars. While the entire amount of poll-tax received in that year from this source, and from the same rate of taxation imposed on every free male between the ages of 21 and 45, in a population of little less than half a million, was 28,211 dollars, exclusive of the six per cent. retained by the Sheriffs for commissions.

It would be seen, that the Treasury Department suffered greatly for want of more strictness in the collection of the Revenue. Some improvements have been made since the election of the Sheriffs by the people, and when it is seen that the influence which every county will have in the Legislative Councils of the State will depend upon the amount of taxes which they pay into the Treasury, they will take some pains to see that the Sheriff does his duty. After the year 1741, when the system of taxation shall be properly arranged, he should not be very anxious whether future changes were made every ten or twenty years; but he thought

it was as necessary to look after our Electoral districts for our own Legislators, as for those for electing Members of Congress.

Mr. DANIEL observed, that the motion of the gentleman from Pitt, would have no effect on the House of Commons. He thought with him, that all our fundamental laws should be of a permanent character, and was therefore in favor of his motion.

Mr. WELLBORN repeated his desire to retain this provision. He thought it best to retain the power. Great changes had taken place within the last ten years, great changes are every day taking place, and no one can foretell what events may occur, within the next ten or fifteen years, to make a fresh arrangement necessary.

Mr. SMITH, of Orange, observed, that the Convention Act directed that the Election districts should be laid off at convenient and prescribed periods. He doubted whether any of the States deferred this business for 20 years. He believed that changes in most of the States were made every five or ten years. The present provision is ten years, which agrees with the time of taking the Census of all the States, and when we have to make regulations as to our Congressional districts, if an increase in our population renders it necessary. This matter might very well be left to the people, to act upon it or not, as they may judge proper. In 1841, the General Assembly will have to act on the subject, and will make such regulations as they deem necessary.

Mr. WILLIAMS, of Pitt, did not wish to see the State upset every ten years, where there was no necessity for it. What injury would be experienced by postponing the change for ten years longer? It is said, the power had better be left with the people to make a change, if necessary. He did not wish to hold out any encouragement to the people to make such changes, because he wished to see more stability given to our establishments.

Mr. EDWARDS said, the present was a question of mere expediency, whether it will be best to district the State anew, once in ten or twenty years. The latter period would afford time for becoming acquainted with the local feelings and wishes of the people. It would be well, at all events, to have the system well adjusted in 1841, as the present mode of taxation seems to need amendment.

Mr. FISHER was opposed to this motion. In all Electoral districts, whether for members of Congress, or members of Assembly, leading men are apt to league together for the purpose of promoting particular views, and it is well, once in ten years, to break up these political associations. So that the object which the gentleman from Warren dreads, would be in favor of the article as it stands.

Mr. GASTON said, he had been greatly embarrassed by this question. To make an assessment every ten years, would probably be the most correct course; but, to have it made once in twenty years, would give less trouble, and produce less excite-

ment. He had thought an intermediate course might be best.— He offered a suggestion on the subject. It would be necessary, he said, to make some temporary arrangement before the Convention adjourns, to continue in force for about five years. Would it not be expedient, then, to provide that the first assessment shall take place in 1841, the second in 1851, by which period, time will have been given for testing, by experience, the efficiency of the plan adopted, and make all succeeding ones, every twenty years thereafter?

Mr. G. mentioned some of the reasons which induced him to suggest this amendment. From the information which the gentleman from Macon had laid before the Convention, it was seen, that it became necessary to make some provisions in their case. Contemplated improvements in some of the Eastern counties have also been brought to our notice.

Whatever arrangements are deemed necessary for duly arranging the Senate, should be applied, if practicable, to the House of Commons also.

He made these suggestions neither as an Eastern nor a Western man. He came here to make peace between them.

The question was taken on Mr. *Williams's* amendment, for striking out, and carried, 68 votes to 60.

Mr. WILLIAMS then moved to fill the blank with the word *twenty*, which was carried by 69 votes to 59.

Mr. GASTON then offered his amendment, observing, that it was his wish, in forming the basis of representation, to make it as generally acceptable as practicable, and not that it should be particularly agreeable to one section of country, and exceptionable to other sections. He hoped, that whatever changes in the Constitution were adopted by this Convention, might prove acceptable to every portion of the State.

He did not expect, with the gentleman from Greene, any great improvement in the value of property, in the Eastern portion of the State. He was obliged to acknowledge that the value of real property in the county in which he resided, within the last ten years, had depreciated $33\frac{1}{3}$ per cent. and he entertained no hope of an increase of value, in any given time, from the draining of Swamp lands, or otherwise; but there was a satisfactory reason offered by the gentleman from Macon, to expect that a great increase would in a few years take place in the value of lands in his county, as well as in its population, which ought to be provided for. There were other reasons for adopting this amendment. It is generally believed, that our system of taxation is not as productive as it ought to be. Means will be taken by the Legislature, it is expected, to render it more so. It may then be proper to make arrangements to meet the improved system of collecting the revenue. After the year 1851, he would be willing that the

arrangement of the Election districts should take place but once in twenty years.

Mr. GUINN said, the estimation of the value of the lands in Macon, was about 300,000 dollars. He expected the titles to these lands would be obtained in a few years, so that their taxes would amount to 2,500.

The amendment was carried, 77 votes to 51.

On motion of Mr. SPEIGHT, of Greene, the Convention proceeded to the consideration of the next Article.

Mr. BRYAN wished some provision made in relation to the Borough towns, before this Article was finally disposed of, and proposed an amendment, including the towns of Edenton, Newbern and Wilmington, as being entitled, each, to send a member.

Mr. GASTON advised the gentleman from Carteret to withdraw his amendment for the present; that the Committee who had the subject of Borough Representation under consideration would shortly report on it, when a fit opportunity would be offered for pressing the claims of the towns in question.

Mr. BRYAN did not withdraw his motion. A question was taken upon it, and it was negatived.

The question was then taken on striking out the words *one hundred and twenty*, and negatived, 76 to 52.

Those who voted in the affirmative, were

Messrs. Andres, Averitt, Adams, Bryan, Baxter, Branch, Biggs, Bailey, Bunting, Boddie, Cox, Cooper, Calvert, Collins, Daniel, Ferebee, Gatling, Gaston, of Hyde, Gary, Hill, Hall, Hussey, Hooker, Hodges, Huggins, Howard, Harrington, Halsey, Jacocks, McPherson, Marchant, Norcom, Outlaw, Powell, of Columbus, Powell of Robeson, Pipkin, Rayner, Ramsay, of Pasquotank, Roulhac, Styron, Sawyer, Sugg, Stallings, Speight, of Greene, Sanders, Sherard, Spruill, Troy, Wilson, of Edgecomb, Wilson, of Perquimons, Whitfield and Wilder—52.

Those who voted in the negative, were

Messrs. Arrington, Bower, Bonner, Barringer, Brittain, Birchett, Brodnax, Crutten, Cathey, Cansler, Chalmers, Chambers, Carson, of Rutherford, Dockery, Dobson, Elliott, Edwards, Faison, Fisher, Franklin, Gaither, Graves, Gaston, of Craven, Gilliam, Guinn, Grier, Gaines, Gray, Giles, Gudger, Hogan, Hargrave, Hutcheson, Holmes, Jones, of Wake, Jones, of Wilkes, Jervis, Joiner, King, Kelly, Lea, Lesueur, Macon, McQueen, Morris, McMillan, Melchor, McDiarmid, Morehead, Martin, Mars-teller, Montgomery, Meares, Moore, Owen, Pearsall, Parker, Ruffin, Swain, Skinner, Spaight, of Craven, Shipp, Smith, of Orange, Smith, of Yancy, Seawell, Shober, Taylor, Toomer, White, Williams, of Franklin, Williams, of Person, Williams, of Pitt, Welch, Wellborn and Young—75.

Mr. HARRINGTON then moved to strike out the word *fifty*, as the number of members for the Senate.

Mr. SPEIGHT, of Greene, hoped the motion would not be persisted in, since it appeared there was a decided majority for retaining the highest number for the House of Commons. He hoped no further attempt would be made to reduce the number of either House.

Mr. HARRINGTON being unwilling to withdraw his motion, it was negatived, 120 to 4. The Convention then adjourned.

SATURDAY, JUNE 20, 1835.

After Prayer by the Rev. Mr. Jamieson,

The Convention went into a Committee of the Whole, Mr. WELLBORN in the Chair, on the proposition which gives to the Convention the power of directing whether the General Assembly shall hold its sessions annually or biennially.

Mr. DANIEL moved the following Resolution:

“Resolved, That it is expedient that there be annual sessions of the General Assembly.”

Mr. SPRUILL moved to amend the motion, by striking out *annual* and inserting *biennial*.

Mr. DANIEL believed, that the only reason that was offered in support of changing the sessions of the Legislature from annual to biennial, was the saving of expense, whilst there were many reasons which occurred to him, against changing the fundamental principles of Government. To put off meeting annually, to once in two years, shows an inclination to neglect the important duty of legislation; for want of frequent calls to the exercise of this duty, the right itself might in time be destroyed. All the powers not granted to the General Government are reserved to the State Governments and in the People, and as Congress meets annually, it is necessary the Legislatures of the States should meet annually, to take care of their reserved rights, and see that Congress does not invade them.

On the score of economy, Mr. D. doubted whether much would be saved by biennial sessions. The number of the legislative body being reduced, the duration of their sessions would be shortened, and would not probably exceed four weeks; but if the sessions were to be biennial, they would require eight weeks to get through their business.

The Convention is directed to adopt some mode of preventing so much private legislation. He knew no way of doing this, but by taxing all private bills, and this would not prevent it altogether. There are frequent occasions which render private legislation necessary, and to compel persons to pay a tax who have a right to apply to the Legislature for such acts, would be deemed hard. The right must be left open, and if some useless laws be passed, the cost of passing and printing them will be all the inconvenience sustained.

Mr. CRUDUP thought the gentleman from Halifax was mistaken, when he said the only ground on which biennial sessions were supported, was to save expense. It is urged, that by holding the sessions annually, a number of useless laws are passed, and laws are frequently changed before time has been given to ascertain whether they are good or bad. Another reason in favor of biennial sessions, is, the people would be careful to elect

suitable men as representatives, when they had to pass more permanent laws—the passing of laws by way of experiment would be prevented. But the gentleman from Halifax deems it necessary that the Legislature should meet annually to check the doings of Congress. He could not understand what influence our State Legislature could have on that body. We may indeed pass Resolutions asserting our rights; but Congress will pass such laws as they judge proper for the general interests of the Union. And if it were necessary for the General Assembly to meet on any special occasion, the Governor had the power to call the body together.

Mr. SMITH, of Orange, said, he was in favor of the amendment of the gentleman from Tyrrell; and if that were carried, he should also be in favor of introducing a further amendment, that no session of the Legislature should sit longer than fifty days. He could see no necessity for annual meetings. He thought that a session of fifty days, once in two years, would be sufficient to make all the necessary laws for this State, and this change would greatly lessen the expenses of the Government.—For the last ten years the greater part of the revenue of the State has been consumed by the sessions of the General Assembly—an amount, in the whole, of about 400,000 dollars. And if the Statute books be examined, it will be found that few laws of any value to the State have been passed during that period. He thought it time, therefore, to enquire whether we had not too much legislation.

It had been said, that annual sessions were necessary to watch the proceedings of Congress. For his part, he should be glad that our General Assembly might not sit during the session of the National Legislature; he did not think that the members of our State Legislature ought to trouble themselves about the business of Congress. Biennial sessions of the Legislature were thought by some to conflict with that section of the Bill of Rights which declares, “that a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.” He was of a different opinion. If the Assembly met in every alternate year, time would be allowed to ascertain the merits of a law which had been passed at a previous session. If any great emergency required an extra meeting of the Legislature, the Governor had the power to call it.

On the subject of limiting the sessions, some might doubt whether the Convention had the power to act upon it. He thought the time of meeting of the Legislature, and the period at which its sessions should close, might be fixed. He threw out the matter for the consideration of the Convention.

Mr. BRANCH said, that the quotation from our Constitution, made by the gentleman from Orange, was a sufficient ground for the motion made by his colleague, to continue the annual ses-

sions of our Legislature. This fundamental principle has been acted upon for more than half a century, yet it is unknown to any but those Governments who have made some progress in the adoption of liberal principles. The preservation of liberty, he said, depended on a due preservation of a system of checks and balances.

Mr. B. differed in opinion from the gentleman from Orange, (Mr. Smith) when he said we had nothing to fear from the General Government. He thought we had every thing to dread from Federal legislation. We see that some of the States have moved in favor of the powers that be; and it is apprehended that others may tread in their steps. We know that in the year 1798, this State stepped aside to support the Alien and Sedition Laws. And that few of the States were found to oppose these laws until Virginia passed her famous Resolutions in 1799, on the subject.

Have we not, enquired Mr. B. in an instance of a more recent date, seen our Legislature rise in aid of a dangerous concentrated Federal power? We certainly had; but he trusted we should see it checked as in former days.

He believed that annual sessions of the Legislature were well calculated to keep in check Federal usurpations. The powers of the General Government are constantly increasing; and American liberty depends on the preservation of State rights and State powers. He was no disorganizer; but he was for keeping a constant watch on Federal power.

The saving of expense, Mr. B. said, ought to be one of the last considerations which should lead us to change our Legislative sessions from annual to biennial. As his venerable friend (Mr. Macon) had said—let the Civil List alone—the people will never be oppressed by it. It is as the dust in the balance. It may suit the purpose of demagogues to cut down the salaries of officers, which ought probably to be increased; but it answers no good purpose.

Mr. COOPER said, he was sent here to do justice to his constituents. He was in favor of biennial sessions. He believed that by meeting every other year, the Legislature would be able to pass all the laws that would be wanted, and all that could benefit the people of the State; and it would produce a great saving of expense.

Mr. EDWARDS did not concur in opinion with the gentleman from Orange, that this is so simple a question. He thought it a question of great importance. It was said, that biennial sessions were recommended by considerations of economy. He could not see this; for if two years were to elapse between each session, one session would cost as much as two, for they would sit nearly twice as long. But would gentlemen be willing to test a question of this vital nature on the score of expense only? When the

rights of the people were at stake, would gentlemen speak of the cost of maintaining them? The Legislature, said Mr. E. is the most important arm of the Government. It is therefore all-important that it should meet annually. Suppose the Executive or the Judiciary should be disposed improperly to extend their powers, what power would there be to control them in the absence of the Legislature? And will it be expected that the Governor would call an extra session in such a case? Your subaltern officers are directed to report annually. Would you turn them over to the Executive power in the absence of the Legislature? It is said the Executive could at any time call an extra session of the Legislature; but he had rather the Legislature should meet under the direction of the Constitution, than on the call of the Governor. Conflicting claims may arise between the General and State Governments, and the State Legislature ought always to be ready to act in such cases. If the Legislature were not in session, additional power would have to be given to the Executive—a power that he did not wish to see increased.

Mr. E. reminded the Committee of an amendment which is submitted to the Convention, to provide a tribunal whereby the Judges of the Superior and Supreme Courts, and other officers of the State, may be impeached and tried for corruption and malpractices in office; but if charges should be made against any of these officers, they could not be brought to trial, unless the Legislature were in session; they would have to continue in office, unfit and unworthy as they might be, for two years longer, unless the Governor might choose to call the Legislature together.

But it is said, that our Statute Book is crowded with too many laws. These are the acts of the people themselves. Their representatives can at any time repeal them, if they are not found good or useful.

He concluded with the hope that the Convention would not be hurried into a decision on this question.

Mr. SEAWELL said, as he came from the county in which the Seat of Government is located, it might be thought by some, that the particular interest which his constituents felt, would necessarily govern his vote. In the first place, said Mr. S. I will say, that I am not quite satisfied in my mind, that they are materially interested in opposing the substitution of biennial instead of annual meetings of the Legislature; for I believe the length of the sessions will be so increased, as to give them the profits of two years at one time, instead of being divided into annual instalments. But if their pecuniary losses were to be diminished in a considerable degree, yet that alone would not restrain him from adopting the proposed amendment; he was not sent here to amend the Constitution so as to make it suit the interests of Wake county only, but to make such amendments as the interests of the whole State require. He regarded the State

as one family, in which the interest of a large portion ought to prevail over that of a small fraction. The question which is presented in the consideration of this proposition, appeared to him more identified with the liberty of the people, more closely connected with the permanency of our Republican Institutions, accordingly as they should determine, than any other amendment which is submitted by the Act of Assembly.

In modern times, it is universally admitted in all Governments professing to be free, that the exercise of all political power is derived from the people. And he believed the opinion was equally current, that the people, though the safest depositories of this power, are, from their numbers, their want of information, and their ignorance of the mode of doing business, the least capable of exerting it by practical legislation. That they are obliged, from these causes, to have recourse to Representatives, in the choosing of whom, they are every way qualified. Thus we see, that in the regulation of the Police of a town consisting of a few inhabitants, the experience of ages has been for the people to elect representatives. The great qualifications of the representative are, can he be trusted? Is he qualified in understanding? And who can decide these questions better than his neighbors? They have lived with him, had dealings with him, and must know whether he is able to be useful to them, and whether they can confide in him? When, therefore, the people form a Government, in the practical operations of which they have no hand, it is of the utmost importance, as regards the security of their liberty, that the periods for which this power is delegated, should be the shortest within which the business to be performed can be accomplished. For, however shocking to our senses it may be, it is nevertheless true, that, on every subject of legislation, where the power of the Legislature is neither defined nor limited, the representative has nothing to control him but his own conscience. Who can recal him, or deprive him of this power, but the people at the polls? In what situation, then, does every free man place himself, when this almost omnipotent power to legislate is delegated? For the period so delegated, they place themselves in bonds, which no treachery on the part of the agent can dissolve; no expedient on the part of the constituent loosen, till the next election.

But what are the reasons assigned for the change? Amongst others, are mentioned economy, the little occasion on the score of business, and lastly, that when the constituent knows he is to part with his liberty for two years, instead of one, he will be more circumspect in his selection, by which the representation will be improved.

Mr. S. said, it seemed to him, that each of these reasons was radically fallacious. In the first place, the long sessions under

the existing Constitution do not arise from any defect in the Constitution, but in the mode of its administration.

Mr. S. said, he had been acquainted with the proceedings of the Legislature ever since 1795; and it was not till within the last 12 or 14 years that the sessions ever extended beyond Christmas. At those periods, there was much greater necessity for lengthy sessions; more public bills were passed; and yet, it is a notorious fact, the sessions were much shorter. As to the expense, therefore, that must depend upon those who are the members; how they conduct the public business; and is capable only of a remedy at the polls, by those who elect the members.

As to the last reason which had been assigned by the gentleman from Orange, (Mr. Smith,) that proves too much, to be consistent with the form and principles of a republican government. If the argument is sound, this extension of election must also be correct, within any reasonable limit. Then, sir, if two years power out of the hands of the people, would so far excite their jealousy of its abuse, as to make them as much more circumspect as in a grant of one year, and thereby a benefit would be obtained, why not extend it to ten years, so as to gain ten years benefit? Sir, this argument is in the very teeth of the principle that the power should reside in the people; it strikes at once at their competency to choose their delegates, and is one step in the march, by which all Republics have degenerated into Despotisms. Annual Parliaments was a struggle with the people of the mother country for nearly one hundred years before our separation.—Charles the 2d was prevailed upon, not long after the Restoration, to consent to the passage of an Act, by which the sittings of Parliament were not to be intermitted longer than three years. For though, by the ancient statutes, the King, who alone had the power, was bound to convoke the Parliament *annually*, or oftener; yet, it is a well attested historical fact, that in the preceding reign there was an intermission of 12 years. Upon the Revolution, which took place in 1688, one of the first Acts passed, was nearly in the words of our Bill of Rights, declaring, that for redress of grievances, and amending and strengthening the laws, *Parliaments* ought to be frequently held—after which, for the first time, it became practically enforced by the Commons, who would not pass the mutiny act, and the land tax, and malt tax acts, for a longer period than one year; and the first being necessary to the Government, and the latter for the subsistence of the Army, the Parliament is necessarily convoked by the King every year.

When the framers of our Constitution commenced their labors, in order that the principles upon which they had formed it, might be understood, they distinctly declared them in the Bill of Rights, and which they made part of the Constitution. They went a step further than had been taken in the British House of Commons. Being about to construct a Government, in which all power was

to reside in the people; but in which its exercise was to be delegated by popular suffrage, where the most influential and aspiring men would probably be chosen to guard against the abuse of power when delegated, they declared that *elections* should be frequent, and as a commentary upon the word "frequent," declared in the Constitution they should be annual. It may be, that annual elections, and consequently annual Assemblies, cost something more than biennial; and it may be, that the public time and money have been and may be wasted, but what are they when compared to the blessings of our free institutions? What are they to the mischiefs that may grow out of this false step? And ought, in sound policy, a change to take place in the Constitution of a State, where the mischief or inconvenience is completely within its present power, while it leaves at the same time the new Government still subject to the same evil? I regard this amendment as a direct attack upon liberty, and shall therefore vote against it.

MR. SMITH, of Orange, had not intended to have said any thing more on this subject. The whole expenses of our Government, he stated to be about 70,000 dollars, 45,000 of which went to pay the expenses of the Legislature annually; and what, he asked, are the benefits accruing to the country from this expenditure?

But it would appear, from what had fallen from gentlemen in this debate, because we propose biennial, in the place of annual sessions of the Legislature, that we are about to upturn the Government. On the contrary, the friends of this change, are desirous of seeing the Government conducted on plain, economical, republican principles. We cannot (observed Mr. S.) see the necessity of having annual meetings of the General Assembly for the purpose of watching the conduct of our Judges, our Governor, and the General Government.

This Government, said he, has been in existence 60 years, and has it ever happened that the Judges or the Executive have overstepped their bounds of duty?

Mr. S. was clearly of opinion that this Convention ought to obey the will of the people. They have seen their Legislature meet annually, at a great expense for 60 years, and finding that generally, but little good has been derived to the State, from these annual meetings, have directed this Convention to enquire into the expediency of making the sessions in future *biennial*.

As to the danger which gentlemen seem to fear from the General Government, he had no such apprehensions. He had no desire to see our Legislature intermeddle with Federal politics. His fears respecting the Government, are, it will become too unwieldy to be well managed. He apprehended no danger from its encroachment on State rights. The people of this State form a quiet and orderly community, but will always be ready to defend themselves on all proper occasions. He thought when gen-

tllemen talked about watching the movements of the General Government, they meddled with business which was entrusted to others, and with which they had nothing to do.

Mr. KING was of opinion, that annual elections produced great feuds and disorders throughout the State, and furnished too much business for Courts and Grand Juries. So that the cases occasioned by one election were scarcely got over before another took place. He hoped, therefore, that the proposition for biennial sessions would be adopted. If an extra session of the Legislature became necessary, it would be called by the Executive; and he could see no good reason for calling the Legislature together annually, to pass fifteen or twenty public Acts, and five times the number of private ones, at an expense of \$40,000, which would benefit no one in the State, except the citizens of Raleigh, *forty cents*. Were this large sum of money applied to instructing the poor and ignorant, to the improvement of our communications from one part of the country to another, how much real good would be thereby effected!

In addition to the proposition of the gentleman from Orange, to limit the length of the sessions of the Legislature to fifty days, he should be glad to see them meet on the first day of January, rather than at the present time.

Mr. WILSON, of Perquimons, was decidedly in favor of making the meetings of the Legislature biennial instead of annual, and laid before the Committee a calculation to show the saving which would be thus made to the State.

But, said he, we are told that annual sessions are necessary for the purpose of watching the movements of the General Government. The people of North Carolina, he believed, thought favorably of the measures of that Government, and the expense could not be necessary for that purpose.

He thought that even a less time than fifty days, the limit which the gentleman from Orange proposes to give to the extent of sessions of the Legislature, would be sufficient to transact all the real business which could come before it.

Mr. W. observed, that the gentleman from Wake (Mr. Seawell) had gone back to the time of one of the Charles's, to tell the Convention what had been done in England at that time—for what purpose he could not tell. He could not see how it affected the question of our Legislature meeting annually or biennially.

Mr. W. said, it might suit the convenience of some gentlemen to attend annual sessions of the Legislature, but this could not be the case with members generally. The Federal Government would go on whether our Legislature met biennially or annually, and he did not think it worth while to meet annually for the purpose of passing a parcel of private Acts, and appointing a few new Justices and Militia Officers.

Mr. DANIEL observed, that all the old Governments, in addition to Executive influence, had their Nobility, forming a separate order. Our free Government ought to be careful in preserving her Republican principles. The Executive and Aristocratic powers of a Government generally obtain political power from the people by degrees. He referred to the time when the Alien and Sedition laws were passed. But for the spirit with which Virginia acted, in relation to those obnoxious statutes, they might have been still in existence. He hoped we should not part with our annual sessions.

Mr. SKINNER observed, that the present was a question of expediency merely, whether the General Assembly should meet annually or biennially. We have met here, said Mr. S. to carry into effect the compromise made by the people, who have plainly said what they wish us to do.

The declaration of the Bill of Rights, which says that fundamental principles ought to be frequently recurred to, would not, in his opinion, be at all infringed by biennial sessions. The declaration did not say how frequent the recurrences were to be made. The term is a relative one, and would be satisfied whether the Legislature met annually or biennially.

Mr. S. said he should not follow gentlemen into the history of other countries. He was satisfied, that in making the proposed change, no republican principle would be lost sight of, and that the change would be attended with a great saving of expense. The present Constitution has been our rule for upwards of sixty years, and this is the first time the people have recurred to fundamental principles. They have now done so, and instructed this Convention to enquire into the expediency of changing annual sessions of the Legislature to *biennial*. He did not think it was necessary that annual sessions should be held, in order to send instructions to our members of Congress. If such instructions were deemed necessary, they ought to go from the people themselves, and not from their Representatives in the General Assembly.

Mr. S. concluded by saying, that though he was friendly to the proposed change, not because it would be a great saving of expense only, but for other substantial reasons, he hoped he should not, on this account, be placed amongst the demagogues mentioned by the gentleman from Halifax.

Mr. BRANCH said, he certainly did not intend to apply the term *demagogue* to any gentleman who preferred biennial to annual sessions of the General Assembly. It was a subject about which gentlemen might honestly differ. The gentleman from Chowan, when speaking of the declaration of the Bill of Rights, which says, "that a frequent recurrence to fundamental principles, is absolutely necessary to preserve the blessings of liberty," seems to think the people have complied with this requisition,

because they have, after living under the present Constitution for sixty years, now called a Convention to amend it. Is it possible that the gentleman can be correct in taking this view of the subject? If this was the meaning of this clause of the Bill of Rights, he had greatly misunderstood it. He had supposed that our Government, being founded on pure principles of liberty, superior to those of any other, it became necessary, in order to preserve their purity, to have frequent recurrence to first principles in legislating under it.

Mr. SKINNER explained his meaning to have been, not that this was the first time these fundamental principles had been recurred to, but that this was the first time the people had thought it necessary to call for a revision of the Constitution.

Mr. SHOBER moved, in order to afford a further opportunity of discussing this subject, that the Committee rise, and report progress.

This motion being put, and negatived,

Mr. SHOBER said, he would offer a few remarks to the Committee, in favor of holding the sessions of our Legislature biennially, rather than annually. It is supposed by some gentlemen, who have spoken on this occasion, that by making this change we should depart from the principle laid down in our Bill of Rights, where it is declared to be necessary frequently to recur to fundamental principles, and that we should thereby, in some degree, weaken our powers, as a check on other branches of the Government. On the contrary, he thought the change would operate very advantageously. What, he asked, is the complaint against the present system? It is, that we have too much legislation.—And, if we can by any means, correct the evil, we ought to do so. It is believed that the proposed change will, in a great degree, cure the evil. Why do our Legislature pass so few public acts, and so many private ones? They do it, because they have little public business before them, and to fill up their time, private business is introduced. But, when the General Assembly meets but once in two years, the case, he presumed, will be different.

With respect to checks and balances, he admitted that these were highly necessary, and ought to be preserved. The Legislative body ought to be a supervisory power over the Executive and Judicial branches of the Government. But this supervisory power will be exercised with as much effect by biennial as by annual meetings of the Legislature. Some difficulties might occur in making the change; but he could not anticipate any. It has never yet happened that our Governor was found so corrupt that he could not be trusted with power for a limited time; and if he wanted advice on any occasion, he could call his Council together. For his part, he should have no objection to entrust him with all necessary power.

Mr. S. was not certain that it would be proper to limit biennial sessions of the General Assembly, if we had the power; of which he had doubts. If the sessions continued to be annual, he thought the limit might answer a good purpose, if it could be made. He thought that biennial sessions would not be inclined to sit longer than necessary to transact the public business.—When this was done, and private business was introduced, a majority would be found in favor of returning home.

If the proposition for biennial sessions be adopted, it might be necessary to make some further provisions in relation to the next session of the Legislature. Probably pending the discussion, he might offer an amendment to this effect.

Mr. GASTON rose and said, that he was so often under the necessity of intruding his views on the Convention, that he doubted whether he should ask permission of the Committee to offer his crude thoughts on the proposition then before it.

He had thought it his duty to consider all the subjects which were submitted to the consideration of this Convention; for all the subjects are of importance, but he had not bestowed the same attention on this as on many others.

On this question his mind had fluctuated. He did not apprehend that we are about to abridge the Legislative power of the people. We must regard the *momentum* given to this body, as from the people. They have directed us to consider the expediency of providing for biennial instead of annual meetings of the General Assembly; and if this Convention think that biennial sessions will promote the public good, their decision will go out to the people as a proposition. It is not, therefore, to be considered as an attempt to deprive the people of any privilege they at present possess; but merely as sending out, in pursuance of their direction, this subject for their consideration.

Many of the best maxims of our Government have been derived from our English ancestors; and among others, that annual Parliaments are the safeguard of liberty. In their theory the King is Sovereign, and the rights of the people are concessions from him. The King is not only sovereign in theory, but has an immense revenue at his disposal; the disposition of which, can only be controlled by the power of the People over the public purse. The King's necessities, from time to time, oblige him to apply for aids, and by granting or refusing these, the redress of grievances and security from oppression, are effectually advanced.—In this respect, the institutions of our country are exceedingly unlike those of our ancestors. There is no sovereignty here but in the body of the people. No public agent here has more than a delegated power. Checks and balances are not necessary here in the sense they are used in European nations. Checks and balances here, are not between the different orders of society, but

such as are necessary to preserve order in the machinery of the Government, and among the different Agents of the People.

But, it is not to be denied, that there is much strength in the observation of the gentleman from Wake, (Mr. Seawell,) that a power increases in magnitude when it is delegated for a longer time. There is a great difference between a person's enjoying a seat as a legislator for life, for ten, six, four, two years, or one year. He was, therefore, in favor of frequent elections. It must be allowed, however, that the word "frequent," is one of great latitude. How frequent? Every year, or every two, or three years? They should be so frequent as to secure responsibility, but not too frequent for the public convenience. The question is, whether they ought to be fixed at one year or two years.

There are some advantages in favor of two years, which appeared to him of much strength. Not an individual here, or any where, despised niggardly parsimony more than he; but he went the full length of the gentleman from Orange in his views. True economy was not only laudable, but one of the highest virtues of a Statesman. *Magnum vectigal parsimonia*—Economy is a great revenue. He believed it was Lord Burleigh who said, "Take care of the shillings and pence, and the pounds will take care of themselves." If the State can be as well served by the Legislature meeting once in two years, as if they met annually, the economy of the measure would be a great recommendation of it.—The money saved could be well employed in educating the poor and improving the country.

Some gentlemen deemed it necessary that the State Legislature should be annually in session for the purpose of watching the proceedings of the Federal Government, and preventing these from encroaching upon the powers of the State. Should the General Government commit a dangerous usurpation of power, all classes and bodies of men in the community would be justified in sounding the alarm, and calling upon the citizens for the vindication of their rights. No doubt, in such a crisis, an alarm from the State Legislature would be most effectually heard. But the idea of the General Assembly keeping watch and ward over Congress; meeting when Congress meets, and adjourning when Congress adjourns; reviewing and discussing the measures under consideration in Congress, appeared to him fanciful, and little less than ridiculous. The proper duties of the Legislature were confined to matters of internal concern, and there was nothing more certain than that these duties would be neglected, if they suffered their attention to be occupied by Federal politics. The fears of the General Government exercising a dangerous control over the State, he thought were wrongly directed. He did not dread either the expressly delegated or the implied powers of the United States. In modern times, it is *influence*, not *power*, which is to be watched. The immense patronage of the Federal Govern-

mēt, and the wicked practice of applying it to the rewarding of partizans and the buying up of recruits, cause its influence to be felt in every department of the State Government, and in every nook and corner of the State. When he looked around him, and noticed the zeal and meanness with which Federal Offices of every kind were courted and solicited, and recollected the stern integrity which used to prevail in this respect, he was humbled and alarmed—humbled at the change of manners in his honest State, and alarmed at the subserviency to Power which it must generate. In old times, an application for office from North Carolina was an extraordinary occurrence. During the four years which he spent in Congress, but one application was made to him on the subject, and that came from perhaps the most despicable of his constituents. The letter ran somewhat in this fashion:—“I and my friends have constantly supported you. The times are hard, and I want a Post; and I don’t much care what Post it is, so that it has a good salary attached to it.” It is needless (said Mr. G.) to state my answer; but I was strongly tempted to inform him that there was but one Post for which I could recommend him—and that was the *Whipping Post*.

The imagined advantages to be derived from the State Legislature meddling with Federal politics, are contradicted by all experience. Instead of watch and ward being kept by it over the General Government, the Assembly has almost invariably been the supporter of whatever might be the fashion of the time. The would-be leaders here take their instructions from the leaders at Washington, and get up Resolutions and addresses to flatter those in power and recommend themselves to their notice. It is said, that by the force of legislative denunciations, the Alien and Sedition laws were pronounced unconstitutional and became a dead letter. It is extraordinary that gentlemen of profound and general learning should be so inaccurate with regard to matters of our own history and of recent date. On looking into the Journal of the Senate of 1798, you will find that a Resolution denouncing these Acts was, on motion of Mr. Riddick, *rejected* by an almost unanimous vote. Nor were they ever adjudged unconstitutional—they were originally enacted but for a short period, and when that period expired, they were not touched again.

He had heard one argument, which he thought merited some consideration, which was, that biennial sessions would probably throw more power into the hands of the Executive. For himself, he never wished to see the Executive more than the highest Minister of the *Laws*. When a Government has to come in contact with those of Foreign Powers, it must have a powerful Executive. Such an Executive is indispensable for negotiation and for war, and it is this necessity which brings with it the also necessary evil of extensive patronage. But a splendid Ex-

ecutive with great patronage, is unnecessary in the State Governments. He should therefore admit it to be an inconvenience resulting from biennial sessions, that it increased somewhat Executive power. The Governor, with the advice of the Council, made temporary appointments to fill vacancies occurring in the recess of the Legislature—and these vacancies might be a little more frequent, when the Assembly met only once in two years. He thought however, that practically this would be but a small evil, for in these office-loving days, the remark of Mr. Jefferson might well be applied, "Few die, and none resign."

It had been questioned whether biennial sessions would, in truth, be more economical, as probably they would be of longer duration than annual sessions. He entertained no doubt on this question. All gentlemen who were accustomed to legislative proceedings knew that a part of every session necessarily passed away without doing any thing. Strangers were brought together, and some time must elapse before they became acquainted with each other, or could interchange their views. The same interval would suffice for this purpose, whether the Assembly met every year or once in two years. Again, it is certain, that very little Legislation is necessary on public matters. But whenever the General Assembly meets, it seems to be expected that something should be done before it adjourns. From this impatience of repose, springs a vast deal of crude and hasty legislation. But this is not all. The members to gain favor at home, are solicitous to do something *for their counties*—and are often at a loss to find out what this something should be. Adventure, however, they must, and accordingly they introduce a mass of needless and pernicious private Acts. These are attacked at home, and the next year we have Acts to amend the Acts passed the preceding year. Let the Assembly meet but once in two years, and there will be some *employment* for it. There will be saved much of the mischief of rash public, and foolish private Acts, and of that time now miserably expended in getting up such trash.

He thought biennial sessions desirable on another account.—They would give the country one year of repose from electioneering strife, and its consequent tricks and cajoleries. From year's end to year's end, the people are now so teased with importunate solicitations for their favor, that they have no time to reflect on the merits of their numerous lovers. Let them have a little interval in which they may breathe freely and consider calmly.

Mr. MAcon said, Democracy was dead in North-Carolina. He understood a Democracy to be a Government of the People. Public opinion runs in that current. It runs from the principles of the Revolution. He did not believe that there was one of the thirteen original States in which the Legislature did not meet

annually. That his memory was gone, the gentleman from Craven had convinced him by the statement of certain facts whose existence he had forgotten. If you can put off the meeting of the Legislature for two years, you may extend the time to four, six or ten years. Mr. Jefferson said, he preferred the tempest of Liberty to the calm of Despotism. On the subject of long sessions, every one knew his opinion. But if you say the Legislature shall not pass private laws, you destroy the right of petition. He had listened to the gentleman from Craven on his theory of Government, and had expected him to come out on *the other side*, but was disappointed. He seemed to have some doubts which side he should take. Complaint is constantly made that many of our difficulties arise from our not being better acquainted with each other. The best opportunity afforded for forming this acquaintance, is the annual meetings of the Legislature.—As to the expense of the Civil List, he never considered that as any thing. It was jobs that swallowed the public money. It was complained that Legislators debate too much. He believed that no man spoke on any subject who did not tell you something you did not know before. This, he said, is a *talking Government*. The gentleman from Iredell had complained of quarrels and suits growing out of annual elections. He had never found this a grievance in his part of the State. When he first went to the General Assembly, that man was counted the best speaker who said the most in the fewest words. This merit was now lost sight of. The most thrifty planters would not employ overseers for too long a time; and he thought the conduct of legislators should be passed upon annually. If they had done well, they should be re-elected. He thought an annual election was as good a tenure as any other. He did not believe that men were either as *good* or as *bad* as they are generally represented. He knew most of the men that formed the Constitution at Halifax, in 1776, and they would have been an ornament to any age. They had a difficult task to perform. They were not only surrounded by a foreign foe, but they had a domestic enemy to contend with, which composed about one-third of the whole population. These patriots formed this venerated Constitution, and we ought to approach it with awe. It was the great work of our fathers; but we are about to treat it as many of the thoughtless young are too apt to treat their paternal estates. It is perhaps the nature of man to cling to long established opinions—gentlemen seem yet to cling to British notions. The Parliament of Britain has much power; the Sword has also great power. Their Magna Charta has been called a grant of power; but he denied that part—it was power won by the sword. There are different ties in all Governments. What power will you trust? He thought the best part of Government is the Legislature. He hoped this Convention would not feel *force* and forget *right*. Ho

had hoped, that after amending the Constitution, every member would have gone home satisfied, and recommended its adoption to the people; but he began to despair of doing so.

The question being loudly called for, was taken, and Mr. SPRUILL's amendment was carried without a count.

The Convention then adjourned.

MONDAY, JUNE 22, 1835.

After Prayer by the Rev. Dr. McPheeters,

The Resolution, debated, but not decided, some days ago, in relation to making the Capitation Tax on Slaves and free white Polls equal, was taken up in Committee of the Whole, and after debate, agreed to, and referred to a Committee, to report an Article. This Committee consists of Messrs. Swain, Seawell, Williams of Pitt, and Williams, of Person.

On motion of Mr. SHOBER, the Resolution appointing a Committee to enquire whether any amendments be necessary in the mode of appointing and removing from office Militia Officers and Justices of the Peace, was taken up in Committee of the Whole, Mr. Morehead in the Chair, and agreed to without debate.

The Convention then resolved itself into a Committee of the Whole, Mr. Morehead in the Chair, on the 8th Resolution, proposing that a Committee be appointed to enquire whether any, and if any, what amendments be proper to compel the members of the General Assembly to vote *viva voce* in the election of Officers.

Mr. SHOBER moved the following Resolution:

"Resolved, That it is inexpedient to cause the Members of the Assembly of this State to vote *viva voce* in the election of Officers."

The question being put on this Resolution, without any remark, it was negatived.

On motion, the Committee of the Whole rose and reported the original Resolution to the House without amendment.

Mr. SPEIGHT, of Greene, then moved the following Resolution, by way of amendment:

"Resolved, That it is expedient so to amend the Constitution of this State, that in all elections of Officers, the Members of the General Assembly shall vote *viva voce*."

Mr. SMITH, of Orange, hoped this amendment would not prevail, but that the Convention would be satisfied to continue the old mode of voting by ballot. He could see no reason for changing it, nor any good that can arise from it. The great object in all elections, is to secure a fair and free expression of the will of the voters, and he could see no advantage that the *viva voce* mode

had over the ballot in attaining this object. He hoped, therefore, the old mode would be continued.

Mr. SPEIGHT hoped the change would be made, as it would be the means of ascertaining to a certainty how every man voted in an election of Officers. He did not wish to see this practice introduced into our elections generally; but he was clearly in favor of the change proposed. Indeed, he could see no reason why every member's vote should not be made known when he elected a Public Officer, as well as when he voted for or against the passing of a law.

Mr. COOPER was opposed to the motion. He was satisfied with the usual mode of voting by ballot. He could see no good reason for publishing to the world how every man voted for every officer elected.

Mr. SEAWELL was in favor of the change. He thought there was the same reason for making known how members vote for Public Officers, that there is for taking the *Yeas* and *Nays* upon any question before the Legislature. It would prevent any prevarication in future on subjects of this kind. At present, a member might promise to vote for a dozen different men for an office, and not vote for one of them. Our Journal ought, he said, to record fully every man's doings during the session, that his constituents may be able to form a correct judgment of his course.— A vote given by a man in his legislative character, was very different from a vote placed in the ballot-box in his private character.

Mr. GASTON, of Craven, did not approve of this departure from our usual mode of voting. He feared that the innovation would produce much evil, and he believed that it would be followed by little good. It is true, as stated by the gentleman from Wake, there is a marked difference between a vote given by a man in his private capacity, and one given in his legislative character.

A representative is responsible to his constituents, and they have a right to know how he voted on any particular subject.— But, while he should be responsible to his conscience and his constituents, he should be freed from all improper influence.

Suppose the Legislature about to make an appointment of great importance, would it not be right that members should be left to their own free choice, without control from any quarter?

It is essential that representatives should be responsible to their constituents, but to no other person. Now, direct them to vote *viva voce* in the appointment of Speaker, Clerks of the House, Doorkeepers, Militia Officers, &c. they would be liable to be operated upon and controlled by every one about them.

We cannot tell what will be effects of such an influence. At present, he believed no member ever refused to inform his constituents in what manner he voted on any particular occasion. To

deny an answer to a question of this kind, would place a stain on his reputation that he could not get rid of.

But the power might be improperly used to effect party purposes, in agitating political questions; it would be used to carry points on particular occasions, more with a view of keeping up party feelings, than to effect any good purpose.

This consequence may also result: Whenever an appointment is to take place, discussions will follow as to the fitness or unfitness of the applicant for office. Members will be heard to say, as now, when the Yeas and Nays are called, "Being called to record my vote for one or other of certain persons for office, I must state my reasons for the course I shall pursue. I have heard such a report against one of the candidates, and wish to know whether there be any foundation for the report." The consequence will be, that the Legislature of the State will become a School of Scandal for bandying to and fro the characters of men.

He was unwilling to make any change in existing usages, without a moral certainty that the change would be beneficial; and he was constrained to say that he was very far from perceiving the advantages which were promised by the alteration now proposed.

Mr. BRANCH differed in opinion with the gentleman from Craven on this subject. He thought that voting by ballot was productive of prevarication and deception; and at present, there was no way of ascertaining with certainty how any one voted. He thought the fairest and most independent way of voting was for every man openly to declare for whom he voted. He was for doing away the voting by ballot altogether, and for substituting in its place the *viva voce* vote.

Mr. COOPER said, the gentleman from Halifax seemed to have formed a low opinion of members of Assembly, by supposing they would prevaricate when asked about any vote they had given.—He disliked the plan of voting *viva voce*—it would be the means of producing very unpleasant feelings in the community, without producing any good.

Mr. MACON said there was but little difference between voting by ballot and *viva voce*. He preferred the latter. He thought men were better than they are generally represented. If a man had the misfortune to have his house burnt, you will always find his neighbors ready to help him to rebuild it. And he did not think our Government was so vicious as it is represented, or we should not have kept it so long. If all were honest, we should want no Government. Living under a good Constitution, he felt unwilling to change it, but when the people determine to change, the change must be made. With respect to voting, he thought no man should be unwilling to tell how he voted on any occasion. Voting by ballot, a man might call on a neighbor to vouch for him, but he would appeal to the gentleman from Craven, if the

record was not the best evidence. He was, therefore, in favor of voting *viva voce*. He believed the vote by ballot was introduced, when voters were kept from voting publicly for fear of the merchant's books, for they were in debt. But, we had now nothing to fear on that ground. And as to a difference of opinion on politics destroying long existing friendships, he did not believe it. He had differed in opinion with some of his best friends, and it made no breach in their friendship. Every agent should be responsible to his principal, and he thought the best evidence in such cases was the record.

Mr. JACOBS said, that he should vote against the amendment, from a belief that if the *viva voce* mode was adopted, it would be used for party purposes; and that in this day of "reform," it might, by aid of future Conventions, be carried into the county elections, and produce great divisions and bad feelings amongst our citizens. He, however, was inclined to require it of the Legislature, though he differed materially with gentlemen who contended that a *difference of opinion* did not produce a *difference of feelings*. He had lived long enough to observe, and become convinced to the contrary, and no man had greater cause to regret it than he had.

The Committee then rose, and reported the following amendment:—Strike out all after the word "Resolved," and insert, in lieu thereof, the words "That it is expedient so to amend the Constitution, as in all elections by the General Assembly, the members shall vote *viva voce*." Which amendment was adopted. Yeas 84, Nays 40, as follows:

YEAS—Messrs. Averit, Arrington, Bower, Bonner, Barringer, Baxter, Branch, Brittain, Biggs, Bunting, Birchett, Brodnax, Carson, of Burke, Cathey, Cansler, Chalmers, Calvert, Chambers, Daniel, Dobson, Edwards, Ferebee, Faison, Franklin, Gatling, Gaither, Gilliam, Guinn, Gary, Hall, Hogan, Hargrave, Hussey, Hooker, Hodges, Huggins, Howard, Hutcheson, Harrington, Holmes, Jones, of Wake, Jervis, Kelly, Macon, M'Queen, M'Millan, Melchor, M'Pherson, M'Diarmid, Marchant, Martin, Montgomery, Moore, Norcom, Outlaw, Owen, Powell, of Columbus, Powell, of Robeson, Pearsall, Pipkin, Ruffin, Ramsay, of Chatham, Rayner, Roulhac, Styron, Sawyer, Skinner, Spaight, of Craven, Speight, of Greene, Sugg, Stallings, Sanders, Seawell, Smith, of Yancy, Tayloe, Wilson, of Edgecomb, Wilson, of Perquimons, Welch, Williams, of Franklin, Williams, of Person, Williams, of Pitt, Whitfield, Welborn and Wilder.

NAYS—Messrs. Andres, Adams, Bryan, Bailey, Crudup, Cox, Cooper, Carson, of Rutherford, Collins, Dockery, Elliot, Fisher, Graves, Gaston, of Craven, Gaston, of Hyde, Grier, Gaines, Gray, Giles, Gudger, Hill, Halsey, Joiner, Jacobs, King, Lea, Morris, Morehead, Meares, Parker, Ramsay, of Pasquotank, Swain, Shipp, Smith, of Orange, Shober, Spruill, Troy, Toomer, White and Young.

On motion of Mr. SPEIGHT, of Greene, the Resolution was referred to a Committee, with instructions to report an Article to that effect.

The Convention then resolved itself into a Committee of the Whole, Mr. BOWER in the Chair, on the 10th Resolution, which is in the following words:

“Resolved, That a Committee be appointed to enquire and report whether any, and if any, what amendments are proper to be made in the Constitution, for supplying vacancies in the General Assembly, accruing before the meeting of the General Assembly.”

Upon this Resolution, a desultory debate of some length took place, in which Messrs. Speight, Meares, Gaston, Daniel, Bryan, Morehead, Seawell, Toomer, Gilliam, and Williams, of Franklin, participated.

It seemed to be the opinion of some of the gentlemen, that no alteration could be made to the Constitution in this particular, because according to the provisions of that instrument, as it now stands, the two Houses are the sole judges of the qualifications and returns of its members—that no one was constitutionally a member, therefore, until the Legislature had passed on his qualifications—that therefore he could not resign—but if in point of fact he was a member, there was no competent authority to which he could resign, until the Legislature met—and in the event of the death of an individual elected, there was no one competent to communicate information of the fact, because no vacancy could occur until the meeting of the Legislature.

On the other hand, it was contended, that in point of fact, an individual is a member as soon as he is elected, and can consequently resign to the Governor, or any other officer prescribed—that in the event of the death of a member, the Sheriff would be the proper person to communicate the fact—and that if any repugnance existed between the Constitution and the proposed amendment, the people, having ratified this proposition, thereby conferred on the Convention the power of reconciling all conflicting provisions.

Ultimately, on motion of Mr. SPEIGHT, of Greene, the Committee rose and reported the Resolution without amendment, and the subject was referred to a select Committee, to examine and report on.

The Convention then adjourned.

TUESDAY, JUNE 23, 1835.

After Prayer by the Rev. Mr. Jamieson,

Mr. SPAIGHT, of Craven, submitted a Resolution for the appointment of a Committee of seven to superintend the enrolling of the amendments to the Constitution which may be adopted, with power to correct all mistakes, and to arrange and classify them in proper order. When done, to be transcribed on Parchment, and to be signed by the President of the Convention, and countersigned by the Secretaries.

The question being on its adoption.

Mr. SHOBER said, he had no particular wish as to the manner in which the Constitution should be authenticated, but, he believed, if they consulted precedent, it would be found that, on similar occasions, it was customary for all the members of the Convention to sign it. Believing such a course would be more solemn and imposing, he moved to amend the Resolution to that effect.

Mr. SPAIGHT could see no advantage in the course suggested by the gentleman from Stokes. It might happen that some of the members would be absent, and therefore *all* could not sign it; or some might object to sign it, because of their disapprobation of particular amendments.

Mr. EDWARDS could see no necessity for the adoption of the proposed amendment, if the signatures of the members were wanting simply in attestation of the authenticity of the instrument; but if desired for the purpose of manifesting the assent of the members to all the proceedings, serious difficulties might occur. The signature of the Presiding Officer, countersigned by the Secretaries, was sufficient.

Mr. DANIEL said, the Constitution of the United States was signed by Washington and all the Delegates, but in modern practice, it was customary only for the President and Secretaries to sign.

Mr. SHOBER referred to the Constitutions of the States of Georgia, Kentucky and Tennessee, as evidence that the modern practice was not uniform in this particular.

The question was put on Mr. SHOBER's amendment, and negatived. The question then recurring on the passage of the Resolution, it was decided in the affirmative.

The Articles prescribing the number of which the Senate and House of Commons shall consist, coming up as the Order of the day,

Mr. WILSON, of Perquimons, being ignorant, as he said, of Parliamentary rule, rose to enquire if he could propose an amendment now to the Articles.

The President assenting,

Mr. W. submitted a motion to strike out 120 in the Article relating to the House of Commons, and insert 90; and 50 in the Article relating to the Senate, and insert 34. He said he came from a section of country opposed to any change in the existing Constitution. His constituents manifested by their vote, an ardent desire that it should not be changed. But after the indications which had already been given, any attempt to resist an alteration of that instrument, would, he knew, prove unavailing, and might subject him to the imputation of being captious. He intended, therefore, to keep his eye steadily fixed on that course of policy best calculated to advance the interests of the State,

and advocate only such measures as were calculated to produce this result. He had devoted some time to the examination of the proceedings of the various Legislatures which had been convened in the State since 1796, and the conclusion had been forced upon his mind, that the sole cause of the protracted sittings of the Legislature, of late years, was the large number of members of which the Legislature consisted. No one who felt any doubt on this subject, could hesitate, if they would make the examination he had. Impressed with the conviction, that the root of the evil was to be found in the overgrown size of the Legislature, he felt it his duty to submit the foregoing motion.

Mr. SPEIGHT, of Greene, suggested to the mover one difficulty. It was not consistent with the Rules of Order, that a definite motion of this kind should be acted on until the blank in the article should be filled. He therefore intimated to him the propriety of laying it on the table, until that matter was decided.

Mr. WILSON assenting.

Mr. SPAIGHT, of Craven, said he could see no use in postponing a decision on this question. Let it be determined now, and then we can act understandingly on the other questions connected with it.

The question on postponing was decided in the negative, and Mr. FISHER then moved to fill the blank in the Article with the word "*biennial*."

Mr. EDWARDS said, he did not rise to detain the Convention; for, if disposed to do so, he felt too unwell to make the attempt. But he owed it to the Convention to state, that whilst concurring in the Articles under consideration, so far as the number of members in each House was concerned, yet he could not vote for them if the blank was filled with the word *biennial*. He had pronounced it the other day one of the most important questions to come before the Convention, and subsequent reflection had gone to confirm the opinion. He could not, therefore, vote for any adjustment of Representation which would authorize Elections only at intervals of two years. This statement was due to himself, due to candor, and due to the Convention. Anxious that every amendment made to the Constitution should be confirmed, he was sorry to see this matter so pertinaciously insisted on; for in his opinion, if adopted, the people would reject the Constitution. They would not part with the control over their Representatives which annual elections gave, for the sake of speculative notions of economy. For the whole matter was open to conjecture, and the experiment was to be tried, whether there would be any saving or not. He did not himself believe there would, for the Legislature would sit twice as long every two years, and in the end, the expenditure would be fully as great.

Mr. CARSON, of Rutherford, remarked, that he took part in this discussion with extreme reluctance, and felt much embarrassment in rising to do so. The manifestation of sentiment exhibited the other day, was so clearly indicative of the result of the vote about to be taken on this question, that he should certainly not have troubled the Convention, but that he wished to justify the vote he should be bound to give.

Mr. C. said, he believed the great object which the people had in view in authorizing the call of a Convention, was to correct the inequalities of our Representation. That point attained, the most important, and the one which most concerned them, they cared but little about any other alterations. In the discussions we have had on this question, economy and retrenchment have been assigned as primary considerations why biennial sessions should be preferred. In no part of the State, of which he had personal knowledge, had this question been fairly put in all its bearings before the people; and really, the more he heard it touched upon, the stronger was his conviction, it had better be left as it was. There are, said he, but three or four States in this whole Union, where biennial sessions are required by their respective Constitutions. With three of these, to wit: Delaware, Mississippi and Missouri, we have no connection, and can have no sort of practical intercourse; but in those States bordering on us, with which we might be presumed to have legislative intercourse, as well as in the Congress of the United States, all have their annual sessions, and it might often occur, in the course of all future time, that great and urgent matters might require that we should have simultaneous sessions. So far therefore, as this State might require a joint action with her contiguous sister States, it would be an advantage to have annual sessions.

Mr. C. said, that since the discussion the other day on this subject, at which time he felt inclined to vote for biennial sessions, he had bestowed much reflection on the subject, and the consequence was, that his mind had undergone a change. He begged leave to call the attention of the Convention to certain principles defined and laid down in our Bill of Rights, and what were they? It is to be observed, that though the Bill of Rights is declared to be a part of the State Constitution, yet it forms no portion of the organic part or body of our State Government, and enters nowhere into either the Legislative, Judicial or Executive Departments. It is therefore, nothing more or less than the most solemn declaration of those rights essential to the preservation of freedom, and which the wisdom of our ancestors have made sacred by engrafting upon our Constitution—the principles of which are not new, but have been laid down and recognized from time immemorial. The 18th Section declares “that the people have a right to assemble together, to consult for the com-

mon good, to instruct their Representatives and to apply to the Legislature for redress of grievances." The 20th Section declares "that for redress of grievances, and for amending and strengthening the laws, elections ought to be often held." The word *often* might be regarded as used in a qualified sense, and it might be said, that once in two years is *often*, within the true meaning of the Bill of Rights. But he believed this construction to be inconsistent and unreasonable, seeing the practical exposition given of it by the framers of our Constitution themselves, in fixing upon annual sessions.

There is another Section, said Mr. C. to which I would call the attention of honorable gentlemen. That is the 21st Section, which declares "that a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty." What are fundamental principles? One of them is the supervisory power the people have over their Representatives, and may be found in the first Article of the Bill of Rights, which declares "that all political power is derivable from and belongs to the people." So far as you postpone or put off the right of suffrage, so you weaken and cut up this most excellent principle of free Governments. This Convention, I trust, will not hastily repudiate and set it at defiance.

If, Mr. President, the people who have this right to apply to the Legislature for a redress of their grievances, are to be put off for two years, before they can be heard, and run all the chances of disappointment in the end, why Sir, it amounts to a denial of the privilege, and is to my mind, a manifest violation of the true spirit of that clause, and can be no longer considered an axiom in free Governments. Again, Sir, frequent elections give value to the right of suffrage, and secure a prompt and faithful accountability from the Representative to his constituent, and in the law-making branch, ought not to be departed from. His motto was—annual elections and short sessions. By this means, we would have a rational system of Legislative economy, and preserve our Institutions in their happy and just proportions. To be blotted out of political existence for two years—the very thought chilled his blood and made him feel for the safety and prosperity of the State. Before manhood, and in his boyish days, he was lifted in joyous transport at each anniversary of this our political jubilee. The spirit, the jovial animation, with which the people of all ages and conditions press forward to the polls, prove by the manner of its enjoyment, that they set a high value upon this privilege.

Mr. C. said, that annually, in his section of the State, when people have finished working their crops, they assemble at public places to hear political discussions, then being carried on by those canvassing for their suffrages; and many of these discussions are managed with great spirit, and are often replete

with instruction to those, no otherwise conversant in political affairs; and of that class, are a large portion of their hearers. If it be true, that one of the best securities of the rights and privileges of a free people, is to enlighten them on these topics, I would say, in proportion as you take away or diminish their elective rights and prevent opportunities of mingling with and hearing public men, and profiting by public discussions, in the same degree, you weaken and detract from the stability of our free institutions. His own observation and experience warranted him in saying, that these discussions in politics now-a-days, though more frequent, were yet listened to, and often delivered in a style to make useful impressions on the people, and served to put them in possession of the public topics which, at the particular juncture, were of the greatest moment. It might be said, that there are other sources of political information; for instance, the newspapers of the day. This species of reading is extending and becoming more diffused; but it is not general, and is not half so good as a spirited discussion before the people. In the Northern States, the people have the advantage of free Schools, and education is more universal. Here, we are not so generally educated, and therefore need all the benefits of knowledge derived from these and other sources. Collision of sentiment elicits the truth; and it is, said Mr. C. a sound, though a hacknied expression, that when the people know the truth, they have no other interest than to do right in public affairs. Mr. C. said, he disliked this innovation extremely, and was sorry to see gentlemen so pertinacious on the point. He was unwilling that a chasm should take place in our Legislative Councils, for so long a time as two years. It will dampen the love of country and wean the people from the bosom of their own State institutions. Being in favor of annual elections and short sessions, he should vote against the amendment which proposes elections only once in two years.

Mr. FISHER said, he was in favor of biennial sessions for a few reasons, which he would briefly state. In the first place, he thought they would insure to the State more careful and better legislation. If there be biennial sessions, there must be biennial elections. When elections take place only once in every two years, he thought the people would be more particular in the choice of their members. I am in favor of frequent elections, said Mr. F., but there may be such a thing as having them too frequent. Whenever a thing becomes very common, it ceases to be much valued, and when we cease to prize it, we are careless how we use it. The elective franchise is the greatest political privilege we enjoy, and the danger is, that we undervalue it by the frequency of elections. By having our State elections only once in two years, the people will value the privilege more highly, and exercise it more judiciously. As it now is, in

many places we see that the people care but little about going to the polls, and often times give themselves but little trouble to enquire into the qualifications of the candidates—they say, it is only for one year, and if the election goes wrong, next year they can correct it. Members of Congress are chosen only once in two years, and has the country experienced any inconvenience or injury from this? I think not. If it be proper to elect members of Congress, whose powers are so vitally connected with the principles of liberty, only once in two years, can it be less so to elect in the same manner members of the State Legislature, whose sphere of action is more limited and less dangerous to the rights of the people? In the new States, where there is a constant filling up of the country, where new counties are every year springing into existence, and where new laws and regulations become necessary, it is certainly proper that there should be annual sessions of the Legislature; but, in an old State, like North Carolina, where every thing is settled, where the system of laws is established, and all the institutions of the country fixed, no such necessity can exist. When there is nothing for the Legislature to do, why bring it in session? It is with Legislative bodies, as with every other mass of men, if they have nothing to do that ought to be done, they will be very apt to set about doing what they ought not to do. For my part, said Mr. F., I think, at present, there is more danger to be apprehended to the institutions of the country from too much, than from too little legislation. When we look around, and see the Legislatures of the several States, and of the Federal Government, all in full operation at the same time, manufacturing laws at the rate of five thousand a year, it is a matter of wonder that our political institutions can remain permanent under this annual flood of enactments, changes and innovations. It looks like unsettling every thing.

A second reason in favor of biennial sessions, is, that the Legislature itself being better selected, will be more cautious in its enactments. The members will consider that the laws they make will have to stand for two years, and therefore they will be more careful what they do. As it now is, laws of doubtful policy are often enacted, because if they do not work well, they can next session be repealed.

A third reason is, that there will be more steadiness and consistency in our legislation. It now often happens, that laws are enacted at one session and are repealed at the next. The session adjourns in January—the Acts usually come out in May, and the elections take place in August. So that the laws are scarcely promulgated, before the new members are elected. It often happens, said Mr. F., that an act is passed at one session, is repealed at the next, and at the succeeding one re-enacted. This was the case with that important act abolishing Imprisonment for Debt. Now, if there were biennial sessions, the people would have time

to see the operations of the law, and could determine better, whether it ought to be repealed or continued.

Mr. F. said, he was in favor of biennial sessions, on the score of **ECONOMY**. Economy is not less a virtue in Governments than in private families. Whenever we see a Government disregarding the principles of Economy, we may look out for abuses and corruptions. If, therefore, biennial sessions, in addition to other advantages, will occasion a considerable saving in public expenditures, surely we ought not to disregard this consideration.— Will this be the case? Some gentlemen say not, but he was certain it would. We know that the annual expense of the Legislature has been, for a good while past, about 40,000 dollars. At the last session, our Legislature consisted of 202 members; the new Constitution will throw off 32 of these, and leave in future 170 members in both Houses. For several years past the Legislature has continued in session from 50 to 55 days, or, from 100 to 110 days in two years. If a Legislature, consisting of 202 members, could do the business of two years in 100 or 110 days, Mr. F. said, he felt certain that a Legislature of 170 members, can do the same amount of business in 75 days, for the reason that small bodies do business with greater despatch than large ones. One hundred and seventy members, with incidental expenses, for a session of 75 days, will cost about 40,000 dollars, or only one half what two sessions now cost. Is this sum worth saving?— Certainly it is.

Mr. F. said, he would very briefly notice one or two of the objections advanced against biennial sessions. It is contended that there ought to be annual sessions of the State Legislatures, in order that they may stand as guards over the rights of the people against the encroachments of the Federal Government. This was not a new idea to him; he had considered it before he came here, and felt its weight. He believed, with those who opposed biennial sessions, that the State Legislatures are the natural and legitimate guardians of the rights of the States and the people, and that it was not only their right, but their duty, to keep a strict watch over the conduct of our Federal Rulers. The writers of the *Federalist*, *Alexander Hamilton*, *John Jay* and *James Madison*, take this view of the subject in the 26th No. of that able work. I do not believe, however, said Mr. F. that the mere action of the Legislature, that is, the passing of a resolution, is a check to usurpation; for, so far as his observation had gone, the Legislature as often decides in favor of the abuse of power as against it. It depends altogether how the majority of the State stand affected to the Administration. If, for example, they are for the powers that be, then the Legislature will **APPROVE**; if otherwise, will **CENSURE**. The guardianship, therefore, does not consist in the **VOTE** of the Legislature, but in the opportunity it affords for public discussion. The Federal Government is far off from the

people—the State Government is close by. The people of North Carolina, send to Congress 13 members; they send to the Legislature 202. They therefore have better means of knowing what takes place in the State Legislature than in Congress. The friends of liberty can speak to them with more effect from Raleigh, than from Washington, and the people will listen to the arguments of the minority as well as of the majority. As a proof of the correctness of this view, Mr. F. said, he would remind the Committee that the Legislature, in 1798, refused to condemn the Alien and Sedition Acts, but the agitation of the subject awakened the attention of the people to it, and the State was soon revolutionized in politics. So, also, in 1822, the Legislature of North Carolina approved Congressional Caucuses, by refusing to censure them; but the arguments went out among the people, and they declared against Caucuses. It was the discussion, then, that took place, and not the vote, that made the Legislature, the guardian of the people's rights, against Federal encroachments. But the question is, will a change to biennial sessions make the Legislature less a check against encroachments, than at present?—Mr. F. said, at first, he thought it would, but further reflection brought him to a different conclusion. It is only on elections that these discussions in the Legislature can act, and elections for members of Congress take place but once in two years. If, therefore, our sessions can be held during the winter, before the elections take place, then the people will have the full benefit of all the light and information that were called forth during the preceding session. Another advantage of these biennial elections will be, that it can be so arranged, that our State elections and our Congressional elections shall not come on in the same year. As it now is, both come on together, and the consequence is, that very often, the State elections influence the Congressional election, and *vice versa*. But, to bring them on at different times, the minds of the people being less distracted with conflicting claims, will be able to make better and more disinterested selections.—When the Congressional election is pending, Federal politics will be mostly discussed, and when the State elections are pending, State and local matters will engross attention; so that each will stand fairly before the people, and the candidates will have less chance of combining to aid each other in their schemes of ambition.

Mr. F. said, for these reasons, to which he might add others, if time allowed, he would vote for biennial Sessions of the Legislature.

Mr. M'QUEEN said, if no other argument could be offered in behalf of the proposition now before the Convention, beyond the fact that it would greatly reduce the expenditure of the Legislative department of the Government of the State, he thought this argument, unaided by any other, should operate with such transcend-

ant force in the formation of our opinions, as to determine us in its favor, provided that, in accomplishing this highly beneficent arrangement, no principle of justice or morality, and no maxim of sound policy, was lost sight of and forgotten.

I am not, said Mr. McQ. one of that number who would offer up any sterling principle as an oblation, at the shrine of a transient benefit; nor would I profane the sacred name of economy by closing up a permanent stream of political blessings, to the end that we might annually save a few thousands to the Treasury of the State. Edmund Burke, whose character as a Statesman has burnished into brighter estimation, whilst years have been gliding away, has made one observation on the subject of economy which is worthy of being treasured up in everlasting remembrance; for he has, in his peculiar manner, clearly and accurately defined the nature of economy. He has somewhere said, that the most profuse and splendid liberality would constitute the *ne plus ultra* of perfection in economy, when used as an instrument by which to facilitate the attainment of any object of intrinsic value; and that the miserable parsimony in legislation, which is sometimes mistaken for true economy, would be equivalent in its effects to the most prodigal expenditure of the public funds, when its interposition prevented the consummation of any arrangement which might enhance the public prosperity. I am not, then, in any sense of the word, the advocate of this sort of economy; for I believe its native tendency is to circumscribe the circle of legislative beneficence—to mar the growth of the most promising advantages now within our grasp, and to dim the fairest prospects of futurity.

But, Mr. Chairman, if there is no positive necessity for annual meetings of the Legislature, and no gentleman has made that necessity apparent in the course of this debate, then I conceive that biennial sessions are conclusively recommended by the saving which they would produce in the expenses of our Government. I think it is one of those measures which falls clearly within Mr. Burke's definition of economy, for it violates no principle of public justice, and instead of sacrificing any opportunities of doing Legislative good, it will increase the resources of the State, increase the beneficent influence of the Legislature, and probably open a new era in our history. Gentlemen have affected to treat the economy of the proposed arrangement with levity and contempt; but, Mr. Chairman, I do not believe that this is, by any means, the slightest recommendation of the proposition now before the Convention; for where is there a State, within the extended circle of this Confederacy, which suffers under so severe a dearth of fiscal resources as North Carolina? Where is there a State in which the sources of fiscal prosperity are more rapidly declining, than here? And where, I would ask, is there a State, the general condition of which makes a more impressive and

searching appeal to the hearts of those invested with the attributes of Legislative power, than that of North Carolina? How are we to communicate any reviving touch to the elements of prosperity, which the bounty of Heaven has scattered within our borders, without some enlargement of our fiscal resources? We may flatter ourselves with hopes of coming greatness, and cast a wishful eye o'er the line of futurity, in contemplating the arrival of a more blissful period in our public career, but this hope will prove as delusive as the most airy dreams which flit across "life's morning way," without some radical and thorough change in the Legislative system of the State.

The taunt of ridicule on the economy of this measure, drops with but an ill grace from the lips of Legislators, situated as we are. What is our situation? Why the expenses of the Legislative department of the Government annually amount to more than 40,000 dollars; or, at all events, the sum is so little short of that amount as to be worthy of but a slight degree of consideration; for agreeably to a hasty calculation, I find that the expenses of the last Legislature were something like 37,000 dollars, without embracing any items of expenditure with which it may have encumbered the State on account of contingent charges. For the payment of this sum, the unappropriated monies in the Treasury were not sufficient, and we were compelled to make a draft on the Literary Fund for 10,000 dollars; and we have been in the habit of making such drafts upon the same fund almost every year.—Well these drafts must necessarily leave a deficit in the Literary Fund—the Literary Fund, under a most solemn pledge of the Legislature, has been set apart for the instruction of the rising youth of our country—and, of course, to preserve our public faith inviolate and pure, we will be compelled to repair such deficits as may be created in this fund by the drafts which may be from time to time made on it by the Legislature. From whence are we to derive the funds to effect this object? Why most certainly from the current revenue of the State; and then a chasm will be again made in the resources of the Treasury, which will produce a recurrence to the Literary Fund as often as this chasm is made. Now, sir, with these facts presented to our consideration, can we refrain from adopting the conviction, even if we were inclined to do so, that the fiscal concerns of the State call for the application of some powerful remedy to rescue them from their present sinking condition? Can we resist the unwelcome belief, which is forced upon our minds, that without some glaring change in the features of our fundamental system, that we will soon be compelled either to exhaust the Literary Fund, or resort to some new and odious species of taxation for the purpose of defraying the charges of the State Government?

Introduce biennial sessions of the Legislature, and this change in our system will produce a saving of something more than 20,000

dollars to the Treasury, which combined with a saving of 2,237 dollars, effected by reducing the number of members, will amount to something more than a reduction of 25,000 dollars in the annual expenses of the State Government. Gentlemen have affected to treat the economy of this proposition with levity. I would ask if this great reduction in the expenses of our Government is nothing? If it be nothing, then all the past lessons which have been addressed us on the subject of economy, and all the definitions of its true nature which have been provided for us by the wisdom of departed Statesmen, are as unmeaning as the prattle of infancy.

But the gentleman from Buncombe (Mr. Swain) has informed us, in the course of this discussion, that the expenses of the Legislative department of the Government have been swollen to their usual amount by the inattention of former members of the Legislature to the duties of their station; for that if they had been faithful and assiduous in the labors of Legislation, that the laws which are now impressed upon the pages of our Statute book, might have been enacted in a much shorter time than they actually were, and the sessions of the Legislature consequently abridged in their length. The deduction which I understood the gentleman from Buncombe to draw from this fact was, that the necessary expenses of the Legislature, instead of having flowed from the annual meetings of the Legislature, was more directly the result of indolence and inattention to duty on the part of the members, and that for this reason we might as well retain the clause in the Constitution which provides for annual meetings of the Legislature.—Now, sir, I should be pleased to ascertain how we are to obtain any advantage simply by retaining annual sessions, when there will be no clause inserted in the Constitution providing for the increased industry of the members of the Legislature? Can annual sessions of the Legislature, unaccompanied by any sort of guarantee that the members are to be more faithful and the sessions shorter than they now are, promise us even an atom of saving in the expenses of the Government? The fact is, that we shall be left where we now are, not only without any change for the better, but destitute of any prospect of a change. The fact that former members of the Legislature have been remiss in the performance of their duties, proves very clearly that they occupied a larger space of time in the enactment of a few indifferent laws than they might have done, and should have done, and that consequently, the expenses of the State Government have been, in that way, increased; but, it proves nothing in favor of annual sessions whatever; it merely points out one source of mischief, without providing a remedy for another; for if the sessions of the Legislature are still to be annual, and the members of the Legislature are still to remain negligent, then the oftener the evil of Legislation is inflicted upon us, the more expense we will cer-

tainly incur. But, biennial sessions of the Legislature will be almost certain to effect a saving in the expenses of the Government; for they will not be calculated to promote the indolence of the members, and the measure carries on its front a plain reduction of the expenses of the Legislature in meeting only half as frequently as it formerly did. We have the brighter assurance of this reduction, inasmuch as a clause has been inserted in the charter of our powers, authorising us to insert some clause in the Constitution which will provide for the diminution of private Legislation. Private Legislation has probably had a larger agency in protracting the length of the Sessions of the Legislature than any other circumstance whatever; once cut it up by the roots, through the medium of some Constitutional provision, and our Legislature will be left without the shadow of an excuse for remaining long in session.

The economical tendencies of the proposition now before the Convention, are far, however, from constituting its only recommendation. If the Legislature should meet hereafter, once in two years, instead of meeting every year, as it now does, this circumstance will serve to render the laws of the State explicit and clearly understood to those upon whom they are designed to operate. It was the command of a Roman Tyrant, that the tablets upon which the Laws of his country were written, should be hung high upon the pillars of the State, to the end that those whom he governed might be entrapped in a disobedience to laws which they never read, and punished for violations of duty of which they had never been guilty. But it should be the benevolent policy of a free Government, instead of reinforcing the practice of an odious Tyrant, to put it to flight by an opposite course. Our laws should be made, not merely to operate upon the persons of our citizens, but they should also be grafted upon their consciences. But how can they be so grafted, without they are comprehended, and how can they be comprehended, when they have scarcely lived long enough to get a place upon the Statute Book, before they are repealed. It is a maxim, that "ignorance of the law excuseth no man"—yet many of our laws are in being so short a time, and are changed so frequently, as to leave our people in a state of almost perfect ignorance of their character and bearing—thus making their violation probable, and the penalty annexed to it certain.

It is in the nature of annual meetings of the Legislature, to stimulate to over-legislation, just as it is the nature of frequent meetings of our Courts to stimulate to over-litigation. It is said that litigation has been greatly diminished in those Counties in which the County Courts have been abolished; for the facilities of going to law are thus greatly abridged. And reasoning upon the same principle, we have cause to believe that the introduction of biennial sessions of the Legislature, will reduce legis-

lation—for the facilities of legislation will be in some degree curtailed; and I have no doubt that the temptations to superfluous legislation will diminish in the same ratio. When the Legislature meets every year, as it now does, the members must have something to do, either for the sake of distinction, or for the sake of popularity. Thus many unwholesome laws are passed, and many beneficial laws either changed or repealed merely from the impulse of personal ambition; and this furnishes fresh labor for a future Legislature, in either repealing the bad laws which have been passed, or in reinstating the good laws which have been repealed at a former session. It is certain that the oftener the meetings of the Legislature are held, the greater will be the danger of enacting unwise laws, simply for the purpose of filling up the time consumed in the session, by action of some sort or other. It is equally certain, that the more frequent the Sessions of the Legislature, the greater the danger of changing salutary laws in some important particulars; for the rage of experiment will induce the young, the ardent or aspiring, to offer such amendments, when utterly uncalled for by any public necessity. It is equally certain, also, that the greater the frequency of our Legislative Sessions, the less will be the chance for the permanent continuance of the best laws which may be enacted—for a law which may prove good in the end, may appear harsh in its early operation. Without allowing a sufficient space of time, therefore, in which to test its operation, one session of the Legislature may repeal a law which has been passed at a former session, merely because it does not square with the notions of every one on the earliest blushes of its operation. It is also certain, that the longer the intervals between the respective sessions of the Legislature, the greater will be the opportunity of discovering what laws ought to be repealed, and the greater the opportunity of perceiving what additional laws ought to be enacted; for after an experiment of two years, it can be easily discovered at what point a law which is salutary in the main, could be amended with advantage. After the lapse of the same space of time, it can be easily discovered whether or not a law is sufficiently salutary in its operation to remain on the Statute Book, or to stand repealed in the whole; and it is equally certain, that when an interval of two years occurs between the respective sessions of the Legislature, that the attention of the people and the attention of the members will be more forcibly called to those points of the Statute Book and those points of the State which require the aid of legislation. For as the opportunities of doing Legislative good will be somewhat restricted in point of number, they will be the more highly appreciated; for the members will reason somewhat after this fashion:—It will be a long time before we will be again presented with an opportunity of passing such laws as may be required by the condition of the State, and we must avail our-

selves of the opportunity we now have, or leave the State in a suffering condition for two years to come. They will consequently reflect profoundly on the condition of the State and the actual operation of the laws, and studiously aim to provide an appropriate remedy for every grievance. And no one can doubt, after an interval of two years of calm reflection and quiet repose, that both the people and their public servants will be the better enabled to perceive the points at which improvement may be required, both as it respects the Statute Book and the local condition of the State.

I also believe, Mr. Chairman, that the introduction of Biennial sessions will be productive of another capital benefit to the State. I think that they will have a decided tendency to improve the elements of which our Legislature is hereafter to be composed. When the people choose their representatives often, they hold the privilege in the same estimation that they do all benefits or blessings which are frequently enjoyed—they will give, under such circumstances, but a slender and superficial inspection to the character and qualifications of the candidate whose claims are presented for their consideration. For, say they, whomsoever we select will be in our service but a short space of time—and if he makes an indifferent member, or does any mischief, it matters but little, for we can turn him out in a very short time.

But when the election rolls around but once in two years, their reflections on the matter will assume a more serious cast—for they will then feel and know and say, that the privilege of selecting a Representative in the Councils of the State but seldom returns, and that they should therefore exercise it with the utmost gravity, caution and deliberation; for if he is ignorant, they will lose their opportunity of being benefitted by legislation for two years at least, and if he is unprincipled, the mischief he does, will stand unredressed for two years.

But, different gentlemen have insisted, that this proposition, if carried into effect, would be fraught with many evils in lessening the frequency of elections. That clause in our Bill of Rights which commends the freedom and the frequency of Elections, merely intended to guard us against those long intervals between popular elections which would be calculated to produce an apathy on the part of the people in regard to the conduct of those invested with power—or an inability to turn out those who were entitled to hold their places for many years, and who trampled on the rights of the people.—This clause in the Bill of Rights cannot possibly have any bearing on the question of Biennial Sessions, for the members, although they are to be elected only once in two years, it must be recollected, that they will be empowered to serve no more Sessions than the members who are annually elected, unless there be a called Session of the Legislature, which we may have even now, when the Sessions are an-

nual. So, if a member of the Legislature abuses the confidence of the people, he can flatter himself with no greater share of impunity, than one who is annually elected; for he will be likely to serve but one Session, and he may be turned out with the same ease with those who are elected annually. An election is sufficiently frequent in its occurrence, when it comes often enough for the redress of monstrous grievances; and there is scarcely any law which the Legislature could pass, that would be so oppressive as to be intolerable to the people during the space of two years, and if it should, the Governor might convoke the Legislature for the purpose of having it repealed.—The Article in our Bill of Rights then, before referred to, was intended to guard us against such an infrequent exercise of the elective privilege as would cause us to slide into a forgetfulness of our rights and interests, and it was further intended to guard us against such an infrequent exercise of the elective privilege as would permit those who might enjoy our confidence for a long space of time to trample upon the rights of the people with impunity, and without the fear of being hurled from their situations. It was intended for nothing more—it has no tendency whatever to diminish our regard for Biennial Sessions.

But it has been said by the gentleman from Halifax, (Judge Daniel,) and by the gentleman from Bertie (Mr. Outlaw,) that the Legislature ought to meet annually for the purpose of operating as a check on the encroachments of the Federal Executive. Now for my own part, I believe that in general, the Federal Government will pursue its onward way, regardless of the appeals and remonstrances of State Legislatures. But even if the State Legislatures are charged with that imposing influence over the movements of the Federal Government, which have been ascribed to them by the gentlemen from Halifax and Bertie, we are presented with solid reasons for believing that this influence will be more frequently exerted in sustaining the Federal Government than in opposing its infringements on the rights of the States. The repeal of the Alien and Sedition laws does not reinforce the positions assumed by the gentlemen, in the smallest degree. It is true, as has been stated, that the Resolutions of Virginia and Kentucky, which condemned the Alien and Sedition laws, were adopted previously to their repeal; but we have no cause for the belief, that the adoption of those Resolutions produced the repeal. It is rather to be presumed, that their repeal was promoted by the efficacious influence of popular opinion, for it should be borne in remembrance, that there was a high wrought excitement prevailing throughout the Confederacy against the Alien and Sedition laws; so much so, that the elder Mr. Adams, the Executive under whose auspices those laws were passed, was hurled from the Presidential Chair by acclamation, at the end of four years. The true cause then, of the repeal of these

laws is to be found in the movements of the people in their primary assemblies, and we will be indebted for every future deliverance from Executive oppression to movements of a similar kind, and not to blazing declarations of State Legislatures. It is worthy of remark too, that whilst the Legislatures of Virginia and Kentucky assumed a bold and decided stand against the Alien and Sedition laws, the Legislatures of other States adopted as decided Resolutions in their favor. In this State they were condemned by one branch of the Legislature and approved by the other, and it is highly probable, that so far as Legislative influence was involved in the subject of those laws, they were sustained as much as they were borne down by the Resolutions of State Legislatures.

In descending to more recent stages of our history, we find the State Legislatures almost universally inclining to the side of Federal power. South Carolina, in her late contention with the Federal Government, sincerely believed, no doubt, that her rights, as a member of the Confederacy, had been invaded by enactments of the Federal Legislature; yet, we must remember that our Legislature adopted Resolutions reprobating the course pursued by that State, in the most unmeasured terms. Yet, N. Carolina adjoins the State of South Carolina, and there is every consideration of sympathy and interest to bind the citizens of the two States together. Pennsylvania is the principal theatre of the operations of the Bank of the United States, but we have seen what a powerful revolution was produced in the opinions of her citizens by the influence of the Federal Executive. Her Legislature, at the session before the last, adopted Resolutions approving of the removal of the Deposites, which was a death blow to the interests of that Institution. The Resolution introduced by Mr. Clay, in the Senate, which pronounced the removal of the Deposites an assumption of power not given to the President by the Constitution and Laws of the country, was intended to operate as a barrier to the future strides of Executive power, yet what have we seen? Did the State Legislatures rise, as if by one impulse, to eulogise and approve that celebrated Resolution? No, on the contrary, the Legislatures of New-York, New-Jersey, Connecticut, North Carolina, Alabama, Georgia, and probably two or three other States, not only passed Resolutions in condemnation of Mr. Clay's, but also instructing the very Senators who voted for its adoption, to brand themselves with infamy by voting for its entire obliteration from the Journal of the Senate. So that the defence raised for annual sessions, on the score of their checking the abuses of Federal power, must tumble to the earth for the want of any sustaining facts in the past history of the country—for the presumption is strong that the Federal Government would not be arrested in its march of usurpation by the State Legislatures, though they should remonstrate against its course in the strongest Resolu-

tions—but we find, that instead of being prone to adopt Resolutions disapproving of the course of the Federal Government, when it has been suspected of an abuse of its powers, they have almost universally manifested a strong inclination to uphold it.

But it has been said by the gentleman from Bertie, that if annual elections are dispensed with, we suffer a very severe privation in the loss of that information which is annually diffused among the people by candidates for the State Legislature. Now, I conceive, that the principal benefit reflected on the people by the presence of the candidates, is a more accurate knowledge of their principles, views and talents, than could be obtained in any other way—and this is a species of information which the people will be certain to obtain, whenever it may be essential to their interest; for the candidates will find it to be their interest to go before the people and communicate with them freely, as well after biennial elections are introduced, as they do now, when the elections are annual. And as to the general information communicated to the people, through the medium of electioneering speeches, I consider it of an exceedingly dubious character. The candidates are not generally impelled by an invincible sense of duty to draw information from the purest and most authentic sources for the illumination of the popular mind, like Ministers of the Gospel and Professors in our Seminaries of Learning, but their views of public policy and the general surface of their political principles will frequently contract a coloring from the complexion of their political interests—and they will thus be led to provide, not such information for the people as will have a tendency to correct their political errors, but such information as will improve their own popularity. The Pulpit and the Press are the sources of intelligence in which the people of this State repose their chief reliance. It is to these sources, and a habitual communion with each other, they are indebted for every just conception they entertain, either on the subject of Religion or Politics, and these sources of information will continue to send forth a perennial stream of life to the people, independent of the fact whether the Sessions of the Legislature be annual or biennial. With these views of the question, Mr. Chairman, I shall vote for Biennial Sessions of the Legislature, believing it to be a measure sanctioned by a due regard to the best interests of the State.

Mr. TOOMER rose to make but a remark or two. This Convention, he said, was authorised to provide for biennial, instead of annual meetings of the General Assembly; but it has no authority to deprive that body of any other power conferred upon it by the Constitution. That instrument does not declare that the Legislature *shall* meet annually, but certain duties are prescribed in it, which are to be annually performed. But it contains also a provision, that the Legislature may adjourn themselves to any future day; so that if the amendment prevails, and we declare

the Legislature shall meet biennially, yet it will be perfectly competent for that body, when assembled, to adjourn to meet annually, semi-annually, or sooner, if the public good may seem to require it. The argument, therefore, that biennial sessions of the Legislature will be productive of great evils, has no force; for if the people are in favor of more frequent meetings, public sentiment will coerce that body to adjourn, to meet again in twelve months. We do not then, as has been argued, deprive ourselves of the privilege of meeting annually, if the people so will it. If it be found, that annual sessions are essential to the preservation of our political rights, the people will willingly incur the expenditure necessary for the purpose.

Judge T. said, we did not now exercise the privilege of convening the Legislature so frequently as our ancestors did. Why was this? One reason perhaps, was the expense, but another was, that the frequency of enjoyment had palled upon the appetite. He believed that the liberty of the people depended upon the purity of the elective franchise, and he was therefore disposed to make it more highly appreciated. Would the sparks of liberty glow with less intensity if the Legislature met every two years, than they do now when it meets every year? Why is it, that the Congressional elections excite more interest than the elections of members of the Legislature? It is because the duties of one station are more important than those of the other; it is because the people, exercising the right of suffrage but once in two years, are more circumspect in the selection of their agents, and attach greater value to the privilege.

"Coming events," it was said, "cast their shadows before," and though poetical, Mr. T. remarked, it was nevertheless true. For years, there have been complaints that the Legislature was too frequently assembled at great expense, without any corresponding public benefit. The people have found fault, because so often called from home to vote—they have complained that their young men met too often at election grounds, for purposes of intemperance and dissipation—every class of the community has complained on this score. It was expected, on every hand, that if a Convention were ever called, this subject would be examined and revised, and therefore, there could be no surprise about the matter. He hoped the amendment would prevail.

On the question, "Shall the blank be filled with the word 'biennial,'" Mr. SPEIGHT, of Greene, called for the *Yeas* and *Nays*, which were as follows:

YEAS—Messrs. Andres, Arrington, Adams, Bower, Barringer, Bryan, Baxter, Brittain, Biggs, Bunting, Brodnax, Crudup, Cathey, Cansler, Cooper, Chalmers, Dockery, Dobson, Elliott, Ferebee, Fisher, Faison, Franklin, Gatling, Gaiher, Graves, W. Gaston, A. F. Gaston, Guinn, Grier, Gaines, Gray, Giles, Gudger, Hill, Hogan, Hargrave, Hutcheson, Hussey, Hodges, Huggins, Holmes, Jervis, Joiner, Jacobcks, King, Kelly, Lea, McQueen, Morris, McMillan, Melchor, McDiarmid, McPherson, Merchant, Morehead, Martin, Montgomery, Meares, Moore, Norcom, Owen, Pearseall,

Parker, Powell, J. Ramsay, R. H. Ramsay, Swain, Styron, Skinner, Stallings, Shipp, Sanders, J. S. Smith, B. J. Smith, Shober, Spruill, Toomer, White, Welch, J. Wilson, J. W. Williams, R. Williams, Wellborn and Young.

MYS—Messrs Averitt, Bonner, Branch, Bailey Birchett, Cox, Calvert, Chambers, J. McD. Carson, Collins, Daniel, Edwards, Gilliam, Gary, Hall, Halsey, K. Jones, Macon, Outlaw, Powell, Pipkin, Ruffin, Rayner, Roulhac, Sawyer, R. D. Spaight, Sugg, J. Speight, Seawell, Tayloe, Troy, L. D. Wilson, W. P. Williams, Whitfield and Wilder.

So the Convention determined, by a vote of 85 to 35, to have *biennial* elections.

The Articles now being on their third reading, Mr. WILSON, of Perquimons, pressed his amendment; but the question on its adoption, was decided in the negative, only 26 Delegates voting for it, and the Convention adjourned.

WEDNESDAY, JUNE 24, 1835.

After Prayer by the Rev. Dr. McPheeters,

The Convention, on motion of Mr. SWAIN, called up the Report in favor of allowing the towns of Edenton, Newbern, Wilmington and Fayetteville, each a Representative.

Mr. SKINNER said, though he rose to address the Convention on the subject of Borough Representation, he wished to consider the subject only as connected with the great interests of the State at large.

When the subject was under consideration, some days ago, in Committee of the whole, he took no part in the debate, but voted in favor of allowing members to a portion of the Borough towns—to which he had intended to have added Edenton, had he found a proper opportunity of doing so.

The subject, Mr. S. observed, had already undergone a pretty full discussion. The right of Representation for the Boroughs, is claimed by the citizens inhabiting them, first, on the ground of being a separate and distinct class, consisting of merchants and commercial men, having a separate interest from men engaged in agricultural and other pursuits. If this were the only ground on which the citizens of boroughs claimed a right to be represented, he should not insist on their right. But, there is another ground on which he thought these boroughs were entitled to consideration; it is because of the existence of a distinct commercial interest in this portion of the country, peculiar and important, which requires a distinct consideration. The question is, is this interest of sufficient extent to require separate consideration? He thought it was. It is not confined to boroughs only. It extends throughout the country wherever trade is carried on. But, the commercial business of this country is principally conducted on our sea-board; it matters not so much what number of persons are engaged in it,

but the amount of property employed in it, ought to be considered. Agriculture and Commerce ought to go hand in hand; for whatever is produced by Agricultural industry, beyond the supply of our immediate wants, needs the aid of Commerce to find for it a good market, and to exchange it for other articles of necessity and convenience from abroad. The two interests are therefore inseparably connected, and each ought to receive the protection of the Legislature. This protection is peculiarly necessary for the Commercial interest, which differs materially from any other.—It has a separate Code of Laws, calculated to meet all its wants in relation to Inspections, Insurance, Exchange, &c. This distinction of interests between Commerce and Agriculture, and the necessity of protecting both, had been fully illustrated in the debate which had already taken place.

Mr. S. then introduced a number of facts, to shew, that a very considerable Commerce is carried on through the Albemarle and Pamptico Sounds, and in the waters connected with them; the quantity of corn and naval stores produced, and the quantity of shipping employed to carry them to market is great. It had been estimated, he said, that produce to the amount of five millions of dollars was annually shipped from that section of the State, and that three and a half millions of it went through the Albemarle, and employed 200,000 tons of shipping to transport it to market. He left gentlemen, to judge, therefore, whether the commercial interests of this portion of the country were not deserving of consideration, and whether the towns in which the Commerce of the Country is principally carried on, ought not to be distinctly represented.

Mr. HOLMES had heard nothing, since he spoke on this subject before, to change his opinion as to the propriety of continuing Borough representation. The town of Wilmington, situated in the county which he represented, was the largest and most important seaport in the State; but he saw no necessity for a separate representative for that town, distinct from the county members. He was satisfied, indeed, that the inhabitants of Wilmington, themselves, did not desire the privilege contended for. Mr. H. denied that the port of Wilmington paid the large amount of duties to the General Government that had been represented. Instead of paying 100,000 dollars in duties to the General Government, one-fourth of that amount was not paid; and whatever was collected in this way, went into the Treasury of the U. States, and not into the Treasury of the State.

It had been said, that the citizens of Wilmington had scarcely any voice in the election of a Senator. This, Mr. H. said, might be easily remedied, as land sufficient to qualify them to vote, could be obtained at a very low price.

Mr. H. referred to an Act which the town member from Wilmington had caused to be passed in the year 1826, which had

given great dissatisfaction to the people of that town, and certainly was no evidence that they uniformly set a high value on the services of their Representative.

On motion of Mr. MEARES, the Convention adjourned.

THURSDAY, JUNE 25, 1835.

After Prayer by the Rev. Mr. Jamieson,

Mr. DOCKERY moved the following Resolution, to lie on the table till to-morrow :

Resolved, That during the remainder of the Session, the Convention shall take a recess from one to three o'clock.

On the motion of some member, the Resolution was immediately taken up for consideration—but, after some little discussion, and on a statement that there would be for some days considerable business before the Committees, and by others, that they never knew any good to arise from attempts to hurry the discussion of important business, the motion was ordered to lie on the table.

On motion of Mr. FISHER, the Committee of the whole was discharged from the consideration of the 13th, 14th, 15th, 16th, 17th, 18th, and 19th Resolutions, embraced in the Report of the Committee appointed to consider and report the manner in which it would be proper to take up the business of the Convention, and each of the Resolutions were referred to a Committee.

The 13th Resolution relates to a provision that the Attorney-General shall be elected for a term of years. The 14th to providing a tribunal whereby Judges of the Supreme and Superior Courts, and other Officers of the State, may be impeached and tried for corruption and mal-practice in office. The 15th directs an enquiry whether any amendments shall be made for vacating the office of a Justice of the Peace, and disqualifying him from holding such appointment upon conviction of an infamous crime, or of corruption and mal practice in office. The 16th directs an enquiry what provision shall be made providing for the removal of any of the Judges of the Supreme and Superior Courts for mental or physical inability, upon a concurrent resolution of two-thirds of the Legislature. The 17th directs an enquiry what amendment shall be made providing that the salaries of the Judges shall not be diminished during their continuance in office. The 18th directs an enquiry whether any amendment ought to be made to provide against unnecessary private legislation. The 19th directs an enquiry whether any amendment ought to be made to provide that no Judge of the Supreme Court shall be eligible to any office, or any Judge of the Superior Court to any other

office than that of Judge of the Supreme Court, while retaining his judicial appointment.

On motion of Mr. Collins, the following Resolution was adopted :

Resolved, That the Committee appointed for arranging the Representation of the two Houses, be instructed to prepare and report a plan for districting the State for electing members to the Senate and House of Commons.

The Convention then took up the unfinished business of yesterday, which was the Report proposing to give a Representative to each of the towns of Edenton, Newbern, Wilmington and Fayetteville.

Mr. KELLY rose to say, that from the discussion which had taken place on the subject of Borough Representation, he had been convinced that the commercial interests of the State ought to be represented in the Legislature, as well as the agricultural and other interests, and should therefore vote in favor of admitting the towns mentioned in the Report now under consideration, to the privilege of sending a member.

Mr. GILES said, he should vote in favor of giving to each of the towns mentioned in the Report before the Convention, a member. The gentleman from New Hanover had stated, that the elections heretofore held in Wilmington had been attended with bribery, corruption and great disorder. But, said Mr. G. these evils would not be removed by depriving the town of its member, since an election would still be held in the town for the County Members, and the voters would be the same. He thought it right that the Commercial interests of the country ought to be represented by gentlemen well acquainted with those interests, who would be able to support and explain them to the General Assembly.

Mr. MEARES said, as he had long resided in one of these towns, and had sometimes had the honor of representing it in the State Legislature, he felt it his imperious duty to lay before the Convention such information on the subject before them, as was in his power. He was the more strongly impelled to do so, because he considered the decision of the question essentially important to the whole State.

The grounds, upon which a representation is claimed for these towns, are, that they have distinct commercial interests to guard and protect ; such as were important not only to them, but to the whole State, but such as none but those conversant with commercial matters could rightly understand or properly guard. These separate interests consisted in the proper regulation of pilotage, inspection, quarantine, wrecks, banks, and bills of exchange. Of the importance of these several subjects, much had already been said, which it was unnecessary again to repeat. The laws regulating the disposition of wrecked pro-

perty, was of very great commercial importance. It was the misfortune of all countries, to have scattered along their coasts, persons always ready to avail themselves of the misfortunes of others; and whenever a vessel was stranded, to appropriate to themselves whatever they could by stealth, or by fraud and combination. To protect such property, required regulations such as none but those conversant with the shipping interests, as well as the habits of these marauders, could provide.

But Borough Representation is objected to, because it will infringe the rule of representation by federal numbers and taxation, and will be assigning a Representative to certain individuals, without regard to wealth or numbers. It is spoken of, as giving an invidious privilege and distinction to certain *Towns*. This is not true in principle. Literally, *Borough* Representation does mean *Town* Representation—in principle, its meaning and effect is to give a Representation to certain *localities*, without regard to wealth or population. Is this a new principle? By no means. By our existing Constitution, our whole representation is based upon the Borough principle—assigning to each county (or locality) a fixed number of members, without regard to population or taxation. Cumberland, as a county, elects two members—Fayetteville, as a Borough, elects one.

We are not now called upon to abolish, but to modify this principle. In fact, we are expressly forbidden to abolish it. To each county of the State, however small, is reserved the right of sending one member to the House of Commons. If Brunswick, Columbus, and the other counties, (nine in number) which fall below the ratio of representation, are entitled, on the principle of mere locality, to a Representative, on what principle can you exclude the commercial *Towns*?

Why is one member reserved to each county, however small? Because they have county interests to protect. The people of the county are taxed for *County* purposes, and it is right they should elect a member to guard their *County* interests and regulate the system of *County* taxation, and the nomination of magistrates; and likewise, because by a different rule, you make harsh innovations on the habits of the people. The same reasons apply with equal force to Borough Representation. The leading principle of our Revolution was that representation and taxation should be inseparable; at least so far, that without representation, there should be no taxation. The citizens of commercial towns are taxed in a three-fold view; as citizens of the State, of the County, and Town. The last tax is to be imposed by laws in which, as a town, they have no voice. Is not this an infringement of the principle that there should be no taxation without representation? This system of Police and taxation is indispensable, not only to the individual interests of the town, but to the general good of the whole State, Wilmington pays a town tax

(exclusive of State and County taxes) equal to about 4,000 dollars a year, a very large portion of which is expended in the repairs of docks and other appendages of Commerce, to protect, not the town merely, but the whole country from the introduction of contagion. But, the gentleman from New-Hanover (Mr. Holmes) has told us, that notwithstanding all these important interests, the town of Wilmington does not wish for a Town Member. And to this conclusion he is brought, by the number of votes given for him at the town election ground; although he had publicly avowed his opposition to Borough Representation! The gentleman ought to remember, said he, that at an election in town, where the country people can vote, the result is no evidence of the sentiment of the town. The country votes often give a different complexion from those of the town. The gentleman ought also to remember this question was not agitated to any extent, and that the election turned upon Jacksonism and Anti-Jacksonism—Convention and Anti-Convention. On these topics, the county was with him, and for these reasons, he received the country votes. But let the question be fairly put to the citizens of Wilmington, without bias or intrigue, and my life upon it, not 50 of the 250 town voters will refuse the boon—notwithstanding the corruption of these voters! notwithstanding they are penned like cattle to subserve corrupt purposes, as has been charged upon them.

On a former occasion, said Mr. M. I took occasion to remark, that the town of Wilmington had paid, in duties to the Treasury of the United States, near 100,000 dollars per annum. This has been denied, and the gentleman from New-Hanover informs us, that by the last returns to the Treasury Department, the amount paid was less than one-fourth that sum. It is true, that the amount of duties paid last year, was something less than 24,000 dollars; but, from a Table of Statistics, which I hold in my hand, prepared by the late Archibald D. Murphy, (whose name is a voucher for its accuracy,) it will appear, that in 1816, North-Carolina paid, in duties to the United States, more than 287,000 dollars, and for several years preceding, largely upwards of 500,000 dollars. I have not been able to turn to any document shewing the amount of duties paid by North Carolina from 1816 up to the last year. It is a well known fact, that the Port of Wilmington pays four-fifths of the whole duties of the State. It is as well known, that duties have greatly diminished since 1832. Salt, which, before that time, had, at different periods, paid from 10 to 25 cents per bushel, now pays only 5 cents; the duty on coffee is entirely taken off; the duty on molasses and sugar diminished one half. These were the articles on which the great amount of duty was paid prior to 1832, and this accounts for the diminution in the amount of duty now paid. Still, the contribution is a considerable one, and well deserving consideration.

It has been denied by the gentleman from New-Hanover, that the Town of Wilmington contributes 1,700 dollars of the 2,700 dollars taxes paid by the County of New-Hanover, as alleged by me on a former occasion. I will refer to the Comptroller's Statement of the Public taxes of New-Hanover County, for the year 1832, paid into the Treasury of the State. Take the same statement for any other year, and the proportion will be about the same. The taxes of New-Hanover for 1832, (including the Auction tax,) amounted to

\$2,752 00

Of that sum, the Store tax was	940 00
Town Property tax,	206 59
Tavern tax,	109 04
Billiard Table, (in Wilmington,)	470 00
Total,	\$1,725 63

Now, the above 1,725 dollars, does not include that part of the Poll tax paid by the residents in Wilmington, which would be fully equal to any deduction from Store and Tavern tax paid by the county. For, out of the town, there are not more than half a dozen Stores in the county, and it is believed, not one Tavern which pays a tax, as such.

Mr. President, said Mr. M., the shipping, the commercial importance, and the advantages of the port of Wilmington, have been alluded to by some gentlemen on this floor, with sneers and contempt. On this subject, there is gross ignorance prevalent in almost every part of even our own State. It verifies your observation, sir, that our trade is so scattered, the people of different sections of the State but rarely meet, and know but little of each other. About two years since, I, with others, had my attention particularly called to this subject. The following was the result of inquiry, about the accuracy of which there can exist no doubt:

It appears, from an abstract of the Tonnage of the U. States, for the year 1831, furnished to Congress by the Treasury Department, that the registered and licensed Tonnage owned in Wilmington, was 9,179 tons. That during the last quarter of the year 1832, and the first quarter of the year 1833,

The American Tonnage entered in the Port of

Wilmington, from foreign countries, was	10,337 tons
Foreign Tonnage entered for same period,	4,644 tons

14,981

American tonnage cleared, during same period,
for foreign countries,

Foreign	do.	do.	do.	18,074 tons
				3,888

21,962

The Coasting Tonnage employed during the same period, was	50,000 tons
Making the total Tonnage employed from that place, during those six months, equal to	86,943 tons

During the same period, there was shipped from Wilmington, 18 millions of sawed lumber, 17 millions of timber, 3 millions of staves, 50 millions of shingles, 100,000 barrels of tar and turpentine, 20,000 bales of cotton, 10,000 casks of rice, besides large quantities of rough rice, flax seed, flour, peas, tobacco, varnish, pitch and rosin.

These articles, valued at the home market, and at the ordinary prices, were worth more than 1,000,000 dollars.

It is an unquestionable fact, that Wilmington, from its location, furnishes a better opportunity of selecting West India cargoes than any port in the United States. There is no other port in the Union furnishing so great a variety of produce, sold at the home market by the grower himself. There is no article of exportation raised in the Southern States, except Sugar and *Sea Island Cottons*, which is not carried to Wilmington and sold by the original maker. There is no port in the world to compare with it, in the articles of pitch, pine lumber, timber, and naval stores; of these articles, it ships more than all the other States. And as regards its facility of reaching the ocean, and the draft of water and security as an harbor, Wilmington has but few equals in the Southern States. Its security from the effects of gales of wind as a port, is not surpassed by any other. It has the advantage of having fresh water, which exempts vessels from the destructive effects of the salt-water worm. It is only thirty miles from the Ocean, and a few hours will carry you beyond the Bar. From the wharves you can carry, on *ordinary* tides, twelve feet draft; on *Spring* tides, thirteen feet. This draft of water, with vessels of proper construction, affords sufficient draft for any ordinary *European* trade, and ample for West India. But, on Spring tides, fifteen feet draft of water can be brought across the Bar, and fourteen feet at all times, and approach within nine miles of the town. From these facilities, vessels of 400 tons burthen can be laden at a trifling expense of lighterage, and those of 350 tons, without any, and proceed to sea. From the Chesapeake Bay to the Southern boundary of the U. States, how many ports have equal advantages? Beaufort, in our own State, has a greater draft of water, but in any other respect, is deficient in advantages. Charleston has superior advantages. Pensacola has greater depth of water, and the Mississippi about one foot more acrosss the Bar. But Mobile, now rising so rapidly in commercial importance, in depth of water, both on its bar and in its harbor, is inferior to Wilmington. And yet, these advantages of navigation and this extent of commerce are sneered at as contemptible, and set down as nought,

in requiring for Wilmington a representative, to make known and protect her *commercial* interests.

By reference to the Comptroller's Statement of the Revenue of the State for the year 1832 (and any other year will produce the same ratio of results) it will be found, that the gross Revenue paid into the Treasury, exclusive of the Auction and Bank tax, was 70,571 dollars. Of this sum \$9,163 was a tax on Stores. Add to the Store tax, the amount of the Auction tax 675 dollars, and two-thirds of the tax paid by Banks, which is 6,428 dollars (I should say four-fifths of the Bank Stock of the State was owned by persons residing in towns) and it will be found, that Commerce pays nearly one-fifth part of the whole Revenue of the State. Can any one pretend that this important interest does not demand a Representation peculiarly conversant with it and particularly instructed to guard and protect it?

It is objected that some of these Boroughs have declined in consequence, and are therefore not deserving a representative. If the fact be true, it does not militate against the argument. The four Borough members would necessarily represent the peculiar commercial interests of the whole State.

That the interest of the Planter and Merchant are considered adversary in many regards, I would adduce no stronger evidence than the opposition made by the citizens of Wilmington to their Representative, in consequence of the passage of the law in 1826, as stated by the gentleman from New-Hanover. Here was a law manifestly for the advantage of the community at large, yet, because it bore peculiarly hard upon the retailer, was opposed by that class of traders. I have detained the Convention longer than I intended, but on this question, I could not say less.

Mr. SEAWELL remarked, he did not intend to have said any thing on this subject, nor should he but for something which had fallen from the gentleman from Sampson. The subject of amending the Constitution had been submitted to this Convention by the people themselves.—And when he undertook to speak and act on this subject, he did so, as the Representative of the whole people of the State, and not as for the people of Wake County only, and would act to the best of his judgment and discretion. Believing, as he did, that when the Constitution of the U. States was adopted, all Commercial subjects were transferred to the General Government, he considered the State Government as having nothing to do with them, except so far as it may be necessary to pass Inspection and Pilotage laws, and some other acts of little importance. We are, said Mr. S. about fixing our basis of Representation on distinct principles, which have nothing to do with the different pursuits of men, and he did not wish to see them violated or set aside to favor any particular community, whatever may be their employments. Our Government is founded on principle—all political power is derived from the people.

He was willing to allow to people residing in towns, the same privileges that were enjoyed by people living in the country, and no more. He did not think any thing more necessary. He was therefore opposed to the adoption of the Report before the Convention.

Mr. GASTON said, he was aware of the great desire which existed in the Convention to come to a decision on this question ; but knowing the deep interest which many of his neighbors took on this subject, he could not forbear to offer a few additional remarks upon it.

He said he subscribed entirely to the sentiment expressed by the gentleman from Wake (Mr. Seawell) and he wished it was as fully appreciated as it deserves, that the Delegates assembled in this Convention ought not to consider themselves as sent here to protect the interests of the particular portion of the State from which they come, but, on every question, to consider what will be best for the interest of the State at large.

But, if he understood the same gentleman in another sentiment which he expressed, he deemed it erroneous, and he wished to correct the error. He stated that Borough Representation was repugnant to the principle laid down in the Convention Act for fixing Representation in the House of Commons. Let us, said Mr. G. examine the subject, and see whether this assertion be well founded. We are called here, not to make a Constitution, but to revise the provisions of an old and venerated instrument, in certain particulars, which are fully set forth in the Act under which we have met. To what extent are we to go ? In the first place, the number of members in the Senate, shall not be less than 34, nor more than 50, to be elected by districts, &c. The House of Commons shall consist of not less than 90, nor more than 120, exclusive of Borough members, which the Convention shall have the discretion to exclude in whole or in part ; and the *residue*, that is, the members other than those from the towns, to be elected by counties or districts, or both, according to their federal population, &c.

What, then, has the Legislature, in this Act, in effect, said to the Eastern and Western members ? “ You have been at variance on the subject of Representation. Western members have complained that their large counties have had no greater representation than small counties to the East. We have provided a remedy for this complaint. The general principle of representation in the House of Commons, as to the counties, shall, in future, be according to federal numbers. But, in this Act, an express exception is made even as to the county representation. You are not to carry this principle so far as to exclude the small counties from representation—none of these must be disfranchised. However small a county may be, and however few its inhabitants, it shall be entitled to one member.” And he would say, however

anxious he was to see all parties reconciled, he could not have agreed to any proposition to amend the Constitution which had not recognized this modification. Why so, it may be asked?—Because, when a system has been established, and a certain portion of the citizens have been used to act together, an *esprit du corps* is formed amongst them, which cannot be sundered but with violence.

The Convention Act lays down *no rule* on the subject of Borough Representation. What is the situation of our towns?—There are seven towns in the State which have been in the habit of sending each a representative to the House of Commons. The inhabitants of these towns are as firmly attached to their old habits of electing a member as the citizens of the small counties are to their custom of electing members. But, time has produced changes in the circumstances of some of these towns; some of them have declined in wealth and importance, and are willing to give up the privilege of sending a member in future. With respect to representatives from these towns, we have a general authority to exclude them, in whole or in part. In doing this, we are to be governed by a sound discretion, and consider what course will best promote the public good. There is no rule laid down in respect to Town Representation. What rule does patriotism and a desire to promote the public good, require? Does it require you to take the privilege from all these towns? Or, that you make no more victims than is necessary. This is left to your discretion. And he would ask, on what principle the counties of Columbus, Washington and Macon, are allowed each a member, that would not operate in favor of these towns?

Permit him to say, in behalf of the town with which he was best acquainted, they consider this privilege as invaluable. It has always been enjoyed by them. They had it before the Revolution; they say that the privilege has never been abused by them, and ask why it should be taken away? Because we have the power, shall we determine to exercise it? Will you do it because their numbers do not quite entitle them to a member. Were you to act on this ground, you would have to disfranchise nine of your small counties. Do you take the right away because the inhabitants of the town are not of sufficient consideration for morals, talents or property? Compare them with any portion of your community, and they would not fear the result. Is the Revenue paid by the citizens of this town unworthy your consideration? Does not the public good require, that it should be represented? If it does, is the right to be refused, in order that the citizens may be kept from quarrelling amongst themselves? We would say, in answer, that for 20 years there has been but one contested election. Divided as the citizens may have been on many subjects, they have had no difficulty in selecting a fit Representative.—Shall we be refused a member, because we have a member from

the county? We reply, that a county member would not represent the interests of the town. The citizens of the town have separate interests; they have long been in the habit of acting together; they require laws in relation to their various interests. The Commerce of the State is in a languishing situation, and ought to be encouraged and supported.

Elizabeth City and Washington are stated to be in as flourishing a condition as any of the towns enjoying the privilege of a member, but gentlemen ought to be aware that our powers do not extend to the granting of any new privilege; we can only retain, or abolish in whole or in part, the privileges already granted.

It had been said that Edenton is not of sufficient importance, in a commercial point of view, to be entitled to a member; but it had been complained that some of the counties in the East had been less favored than some of the Western counties, in relation to the disposition of their fractional numbers. Giving a member to Edenton would, in some degree, make up for this difference.

Mr. WILSON, of Perquimons, was decidedly opposed to the adoption of the Report. He denied that it would be expedient to continue the privilege to the four Borough towns as proposed.—He did not think any of them of sufficient importance to be thus favored. He examined the claims set up for the several towns mentioned in the Report, and asserted that the towns of Washington and Elizabeth City were as well entitled to the privilege of a distinct member as any of those which have so long enjoyed the privilege; and that those towns without the privilege allowed to others, had risen in importance, whilst Edenton and most of the other towns had been on the decline.

On taking the question, the Report was disagreed to, 73 votes to 50. The Yeas and Nays were as follows:

YEAS.—Messrs. Andres, Bower, Barringer, Bryan, Bailey, Bunting, Cox, Cansler, Chalmers, J. McD. Carson, Collins, Dockery, Dobson, Fisher, Franklin, W. Gaston, Gilliam, A. F. Gaston, Gray, Giles, Gudger, Hill, Hooker, Joiner, E. Jones King, Kelly, McQueen, McDiarmid, Morehead, Martin, Meares, Moore, Outlaw, Owen, J. W. Powell, Roulhac, Swain, Skinner, R. D. Spaight, J. Speight, Shipp, Saunders, Shober, Troy, Toomer, White, R. Williams, Welborn, Young.—50.

NAYS.—Messrs. Averitt, Arrington, Adams, Bonner, Baxter, Brittain, Biggs, Birchett, Boddie, Brodnax, Crudup, Cathey, Cooper, Calvert, Chambers, Daniel, Elliott, Edwards, Ferebee, Faison, Gatling, Gaither, Graves, Guinn, Grier, Gaines, Gary, Hall, Hogan, Hargrave, Hussey, Hodges, Huggins, Howard, Hutcheson, Harrington, Halsey, Holmes, K. Jones, Jervis, JACOBS, Lea, Macon, Morris, McMillan, Melchor, McPherson, Marchant, Marsteller, Montgomery, A. Powell, Pearsall, Parker, Pipkin, Ruffin, J. Ramsay, R. H. Ramsay, Styron, Sawyer, Sugg, Stallings, J. S. Smith, Seawell, B. J. Smith, Spruill, Taylor, L. D. Wilson, W. P. Williams, Welch, J. Wilson, J. W. Williams, Wilder.—73.

On motion of Mr. GASTON of Craven, the question was then taken on giving Representatives to the towns of Newbern, Wilmington and Fayetteville, and negatived 75 to 47. The Yeas and Nays varied but little from those on the first question.

The Convention then adjourned.

FRIDAY, JUNE 26, 1835.

After Prayer by the Rev. Dr. McPheeters,

Mr. GILES rose and stated, that he had been requested to ask leave of absence from the services of the Convention, for the balance of its session, for Mr. D. M. Barringer, of Cabarrus, the state of whose health rendered it necessary for him to visit the North, in search of medical aid. Leave granted.

Mr. EDWARDS moved, that the Convention go into a Committee of the Whole, on the resolution in relation to the 32d Article of the Constitution.

The question having been stated,

Mr. SMITH, of Orange, moved to lay this subject on the table. He did not wish to prevent discussion, but he was satisfied the best disposition which could be made of it, was to lay it on the table. If the Convention determined the matter should be discussed, he wished it amply and fully done. It was to ascertain this fact, whether a discussion was inevitable, that he submitted his motion, and on it he called for the *Ayes* and *Noes*.

Mr. SPAIGHT, of Craven, rose to ask what the gentleman from Orange proposed to lay on the table.

The PRESIDENT.—The Special Order of the Day.

Mr. SPAIGHT.—The Convention may postpone going into Committee of the Whole on the Order of the Day, but it is not in order to move to lay it on the table. It had been referred to a Committee of the Whole, and no order on it could be taken, until that Committee had reported.

The PRESIDENT.—I consider the motion in order.

Mr. SPAIGHT.—Then, sir, I appeal from the decision of the Chair to the Convention.

Mr. EDWARDS concurred in opinion with the Chair, that the motion was a proper one.

Mr. SMITH rejoined, stating the difference between the effect of a proposition referred to a Committee of the Whole, and to a Select Committee.

Mr. BRANCH said, he had left a sick room to vote on this question. A motion is submitted to lay it on the table. Why so? Is there any more pressing business on hand; is it feared we shall act precipitately; or is there any other reason?

Mr. GASTON, of Craven, rose for information from the Chair. He knew that the motion to lay on the table was not a debateable one. Suppose the motion of the gentleman from Orange prevails, and the Special Order of the Day is laid on the table, will it not be competent for any member afterwards, to move to take it up, and assign his reasons for the motion?

The PRESIDENT.—Certainly.

Mr. GASTON.—Then it is useless to attempt to stifle discussion. It must go on.

The question was then taken on Mr. SPAIGHT's appeal from the Chair, and its decision was confirmed.

Mr. EDWARDS said, he knew the motion to lay on the table was not debateable, but presumed, a remark or two as to the propriety of the motion, would not be out of order. He would ask the gentleman from Orange, whether it comported with the purposes for which the Convention had assembled, to give the go-by—

Mr. WILLIAMS, of Franklin.—The gentleman is certainly out of order.

Mr. EDWARDS resumed his seat—and the question recurring on the motion to lay on the table, it was negatived, 72 to 49.

The question was then put, and carried, for going into Committee of the Whole, on the Resolution—and Mr. FISHER was called to the Chair.

The question having been stated to be on the adoption of the Resolution,

Mr. EDWARDS said, he had bestowed some reflection on the subject, and it was due to himself, to his country and to his Creator, to present the views which led to the conclusion to which he had come. The particular modification of the Article under consideration, which he should propose before he resumed his seat, might not perhaps be acceptable to the Convention ; but he was free to say, a less concession to the liberty of conscience would not satisfy him.

Mr. E. said, if there was one subject, more than another, on which he desired that his views should not be misunderstood—or upon which he felt imperiously bound by the obligations of duty and a sense of accountability *here* and *hereafter*, to express his opinion, with becoming freedom—it was this. In private life, it had been his habit—indeed, he had prescribed it to himself as a law, to remain silent when Religious topics were discussed in his presence ; because, while he claimed the right of exercising and enjoying his own opinion, he was unwilling to interfere with or become responsible for the opinions of others. His present situation demanded a different course. The amendment he should propose to incorporate into our Constitution was one which, in a spirit of liberalism that would reflect honor on our character as a State, proclaims *universal toleration*. Its object is, to remove all disabilities existing on account of differences of opinion in matters of Religion, and conforms in principle to that golden rule—“ Do unto others, as ye would, that they should do unto you.” Sir ! why should a line of discrimination exist ? Why retain in your fundamental law, a principle, which savours so strongly of persecution and bigotry ? A principle, which proscribes for opinion's sake—uncitizenizing a por-

tion of the community and denying them an equal participation in the benefits of free government?

Human institutions, said Mr. E. may torture the body—may subject it to the rack—but cannot enslave the mind or control its action. No fetters can hold it bound—even the wretched victim at the stake cannot be debarred the high privilege of pouring out his fervant aspirations to the throne of mercy. Sir, this must and will be so, in despite of all human regulations. And why? Because HE, who possesses the power of controlling alike the destinies of nations and of individuals, has proclaimed by unalterable laws, that the consciences of men shall not be controlled in matters which concern their eternal welfare. Man's belief cannot be commanded—the liberty of consciences is a natural right, inviolable and inalienable. No man, by his engagements with society, can surrender it, or absolve himself from the obligation to exercise it freely and without restraint, in the discharge of his duty to his God; much less, can Society exercise the power of dispossessing him of it.

Sir, said Mr. E. we have proclaimed this truth in our *Bill of Rights*, in language so clear and explicit that “he who runs may read”—“That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience.” Is the provision in the 32d Article consistent with this declaration? Is there not a palpable incongruity between the two? Does not the one give universal scope to the principle of toleration, and conform strictly to the natural rights of man; and does not the other limit and restrict the inestimable rights of conscience? It disfranchises one portion of our citizens on account of their Religious tenets—while it extends to all others the uninterrupted enjoyment of all the rights secured under our free institutions.

Mr. E. said, he was almost afraid to hear his own voice on this subject; but, in pursuing the examination, he would, from the respect due to the Convention, endeavor to subdue his feelings as much as possible. He was at a loss to conceive why this clause was ever introduced into the Constitution—he had searched in vain for the reasons—but it is there—and it is our duty to examine the influence it exercises on the great fundamental principles of Civil and Religious Liberty. He laid it down as an axiom, which every wise government should keep steadily in view—that *legal* Religion and *political* Liberty are wholly incompatible. That to blend Religion and Politics, would have the effect to open the door wide to a union of Church and State—and that Governments, which all experience shows are apt to prove too strong for the people, would eagerly seize upon every pretext to strengthen the arm of power, by calling to their aid the influences which the timidity of some, and the fanaticism of others on the subject of Religion place too often within their reach. Thus, Sir, might

be devised the most odious tyranny under which mankind ever groaned. Where will the dividing line terminate? If we exclude one sect to-day, what sect will the reckless spirit of proscription next assail? By and by, some other may become equally obnoxious on account of their particular mode of worship. Yes, Sir, once apply the pruning knife—select a particular creed—sanctify it by a place in your organic law—denounce all who do not subscribe to it, and make those the peculiar objects of your favor who do, and my word for it, if ever the time shall come when the public mind shall be strongly excited, tossed almost into phrenzy, by the tricks of cunning zealots and heated fanatics, a disordered and distempered state of Society may ensue that will shake to its very foundation, if not upturn, the temple of liberty itself. Sir, a system, based on the principle that the consciences of men and their faith in matters of religion shall become an affair of Government cannot long be tolerated without a total enslavement of the citizen.

Let us not forget said Mr. E. that by retaining this article, we declare and establish, *to a particular intent*, one only faith, as the true faith, and not only denounce those who do not embrace it—but refuse to extend to them the privileges of our common country. We subject them to the burthens, and demand of them the duties incident to our institutions, while we deny them the privilege of participating in the rewards to which loyalty as citizens ought to entitle them. We proclaim that a particular faith shall be the price of office—that all who do not conform to it shall be punished by an exclusion from the honors, emoluments and distinctions which the humblest should be permitted to aspire to. The province of political assemblages, he had thought, was to regulate the intercourse between man and man—and not between man and his maker.

The rights of conscience, continued Mr. E., those inestimable rights, without which, man would, indeed, be a poor and wretched creature, owe their origin to a source much higher than any earthly power—their kingdom is not of this world, and he who invades them, usurps the prerogative of Deity. Those who choose, may dare to become sponsors for the souls of men—for his part, he would not be so presumptuous—he could not, if he would. In the final settlement of that dread account, which all must sooner or later render, every one must answer for himself; no government or individual, will then be found to propitiate in his behalf. Let the truths of the Gospel be equally the property of all; attempt no shackles upon the mind, and you need fear nothing from error. *Truth* is the only fair antagonist of *error*, and the latter “may be safely tolerated, while the former is left free to combat it.” But, sir, if forgetting this sublime truth, we introduce into our organic law interdictions, on account of religious opinions, we must fence them around, we must preserve

them from violation, we must coerce obedience by pains and penalties—a resort, then, must be had to legislative enactments, and they, in time, may render ecclesiastical or spiritual courts indispensable—for, who can be so well qualified to sit in judgment as those who teach the favored faith. He did not pretend to the spirit of prophecy, but he was grossly in error, should this career be once begun, if Bigotry and Fanaticism do not run riot, and if the most direful consequences do not result. Let the passions of men, enlisted on this subject, once get into your legislative halls, and no one can foresee the effects—for all know the uncontrollable properties of religious enthusiasm. The only true way to keep Religion and Politics apart, was to confer no peculiar privileges on any one sect, but to extend equal protection to all. The surest way of blending them, was to legitimate some sects and bastardize others, and thus set an example by which all but one might be finally denounced as heretical.

Mr. E. said, all, no doubt, held in equal detestation, hypocrisy in Politics and Religion—all were sensible that it was bad policy to furnish incentives to its exercise. But, shall we not promote it by leaving on our Statute book a gilded bait, to ensnare the consciences of men! Shall such a blot be permitted to stain our escutcheon? “Lead us not into temptation,” was the prayer of our Saviour. If we held up the glittering pageantry of office to induce men to play the hypocrite, are we not laying temptations before them? Are we not, by the seductive influence of earthly honors, alienating their affections from their Creator!

Mr. E. asked, if gentlemen were not aware that this spirit of persecution was already abroad in our land, and among our churches—aye, even in the same church? Do they not know, that among the members of one of the leading churches, a division of opinion existed on a subject of deep and vital interest to this State, and to the whole Southern country? Yes, sir, the question had been seriously agitated by one portion of this church, residing north of a certain line, whether their brethren, members of the same church, should not be excluded from the Communion Table, on account of a peculiar description of property which they hold—thus tendering to them the alternative of separation, or a surrender of rights guaranteed to them by the Constitution and laws of their country. Sir, we should not disguise the fact, that this great *political* question, which threatens to shake to its very foundation the union of these States, has been gravely made a *religious* one. Such are the fruits of a spirit of persecution and intolerance. Let us beware, then, lest we afford encouragement to it, by countenancing any such principle by our State polity.

But he took bolder ground. He denied that it belonged to or became any earthly power, to impose shackles on the consciences of men. He denied that it could be required of them as a duty, to interfere with the relations between God and his own creatures,

On this subject, he felt no responsibility to mere man ; and should the impious attempt be made to despoil him of his rights in this respect, as much as he loved Carolina, he could never refer the votaries of freedom to her as an example worthy of imitation.

I repeat, said Mr. E., this is a question which my own inclinations would not have induced me to discuss, could I have passed it by consistently with the dictates of duty. Gentlemen say that this provision in the Constitution is without effect in its practical operation—that it is a dead letter, a mere *brutum fulmen*—and harmless. If this be true, it certainly does not become us, as a grave Assembly engaged in the important work of revising our fundamental law, of prescribing rules of conduct, not for to-day or to-morrow, but for all time I hope, to let it remain there as a false light to mislead and deceive our fellow-men. If it be ambiguous in its import, let us ascertain its meaning, and render it so plain that all may at once understand it. But if, on the other hand, it conflicts with the great fundamental principles of public liberty, do not the high behests of public duty and love of country, demand of us to efface it entirely ? Would it not be a holy work to scatter it in fragments to the winds of Heaven ?

As to qualifications for office, Mr. E. said, he had but one rule. He held the doctrine sound, that man is capable of self-government, and that he is the best judge of his own interests. He was not afraid to trust the people to choose their own agents. If moral or religious disqualifications exist in candidates for office, they are competent to discern them. Fanaticism may for a moment delude, but the people will, when reason resumes her empire, and they are called upon to act definitively, burst the chains which bind them, and announce that decision which is best calculated to advance their own interest and promote their happiness. So long as the public mind is elevated above the mists and clouds of passion and prejudice, and set free from the thralldom of Bigotry and Intolerance, we have some security for the perpetuity of our free Institutions. But, whenever a Government shall presume to say, that a citizen, however exalted his merit or distinguished his abilities, shall not, if he entertains particular religious opinions, participate in the affairs of the country—that Government is far behind the age in which we live, and has yet to learn the true principles on which depend the equal rights of man.

Mr. E. said, he had understood since he came here, that the public mind was greatly agitated on this subject ; and, that in some counties, the excitement bordered almost on phrenzy.—He had been wholly ignorant of this, and he still thought gentlemen were mistaken ; he had hoped that there was but one opinion as to the propriety of expunging from the Constitution this foul stain on our character. These feelings are but momentary impulses—they will soon give way before an enlightened public

opinion—the hallucination will soon be dispelled by the lights of reason and truth. But, it became them to throw themselves into the breach, and stem this mighty current of popular delusion—if, indeed, it existed. For one, he was willing to breast it. No one prized more highly than he did, the approbation of his constituents—to receive that approbation, he regarded as his highest reward—to deserve it, the highest praise. But, on a subject like this, he would not exchange the privilege of telling the truth, of speaking his own sentiments freely and independently, for the plaudits of the world. What is that popularity worth, which is obtained by a sacrifice of principle and conscience. Sir, said Mr. E., I will go back to my constituents—I will throw myself upon that liberality and intelligence which have always sustained me—I will *stand* upon the conscientious conviction that I have not swerved from the principles which have heretofore entitled me to their confidence. Should they then demand the sacrifice, I trust I have too much respect for them and for their rights, not to be prepared for it. I shall have left to me the consolation of knowing, that in the discharge of the duty confided to me, I have taken counsel only from my own head and heart—and above all, the consolation, of which I cannot be deprived, that I have not violated that Divine precept—“Judge not, lest ye be judged.”

Mr. E. in continuation said, he had recently looked into Vattel on this subject—an approved and standard work—which treated with great ability, the subject of International Law, and the various relations which man occupies in this life. He would detain the Committee but a moment to read a passage from it.—[Here Mr. E. read a passage in favor of Religious Toleration.]

Mr. E. also read the Preamble to the Act of Religious Toleration, written by THOMAS JEFFERSON—than whom, Mr. E. said, there never lived a man more devoted to the cause of Liberty or the rights of man. This Preamble, he could say, with truth, contained his own sentiments.

Mr. E. then submitted his amendment—in effect, allowing freedom of worship and of speech, in all matters of Religion—and forbidding *acts* of licentiousness, and *practices* inconsistent with the peace and safety of the State.

Mr. BRYAN said, young as I am, compared with those who surround me, and reluctant as I may be to address this Committee, I feel Mr. Chairman, a consciousness, that silence on this all important subject affecting alike the honor and prosperity of North Carolina, as well as the character and reputation of her citizens, would be truly criminal indeed. I feel a great veneration and respect for our good old Constitution, under which we have so long, and happily lived, and believe me Sir, I would have been unwilling to have touched, or impaired any feature of that sacred compact of our liberties and rights, save the one now under discussion; and I may truly say, that this

affection has been much heightened and increased, by witnessing the great veneration and respect which the old citizens of my county, (Carteret) entertained for this bond of union, and declaration of their rights, and the painful reluctance and unwillingness which they evinced, to have one single feature of that matchless instrument, altered or impaired. In my humble judgment, in the existence of this feeling, and the great repugnance to innovation and change, the cautious prudence in seeking after something new, and the great tenacity with which we hold on to the 'well tried work' of our fathers, as well as our great respect for their dear-bought experience and unsullied honesty and integrity, will be found the surest guaranty for the perpetuity of our liberty and independence. Our old Constitution was the work, and production of no ordinary men—they lived in the times that "tried men's souls," they came fresh from the raging Revolution with the full consciousness of the value of our liberties and rights—they felt the necessity of preserving them inviolate, and manfully went to work, to effect this great and patriotic object. I need not say that the world has seldom seen an assemblage of men, more distinguished for their talents, their patriotism, the purity of their reputation, and the sterling honesty and integrity of their characters, than those who composed the Congress of Halifax, and by whom our Constitution was formed; and as humiliating as the reflection may be to the present generation, and to whatever nameless motive it may be attributed, I verily believe, that not one-third of the people of North Carolina would have been found willing to have committed the destinies of our good old State, and the formation of an entirely new Constitution, to an unlimited Convention. Nay Sir, in these times of trouble and distrust, there would not be found on this floor ten advocates, in favor of the exercise of this unlimited power, and of the surrender on the part of the people of that sovereignty which is always least to be feared, when confined to its appropriate and legitimate sphere. I will not stop to enquire whence arises this melancholy state of affairs, but will only remark, that to my mind it affords one of the strongest arguments, why the ancient and well established order of things should be as little upset, as the necessity of our situation and the change in our political condition, can possibly require. Our State, rich in talent and worth as she is in her exhaustless mineral productions and internal resources, has heretofore been little appreciated; and to me, sir, when abroad, it was a matter of pride and self-congratulation, to hear her commended for those monuments of wisdom, taste and refinement—her old Constitution, and her inimitable Statue of Washington. But, alas! how similar is their melancholy fate! The hand of power has stripped the former of its fair proportions, its just and liberal exercise of power, and many of its wise and wholesome regulations; whilst the ruthless and

unmerciful element, has struck the "living marble" of the latter, dumb and speechless, disrobed it of its matchless mantle, deploiled it of its beauteous symmetry, and left it a melancholy ruin, over which genius, in its gloomy despondency, may truly exclaim—"we ne'er shall look upon its like again." But, sir, it is a gratifying reflection, and an apt illustration of the value and congeniality of our institutions, that this great and mighty revolution in public sentiment, has been effected, not by the bayonet and the sword, but by the constitutional exercise of the free and uncontrolled opinions, of a majority of our fellow-citizens.

We are told by the gentleman from Warren, (Mr. Edwards,) that a great and extraordinary excitement pervades our State, upon this subject; and I may be permitted to remark, that the greater that excitement becomes, the more cool, deliberate and determined should be our discussions here. We should regard it as a sacred duty, instead of adding fuel to the flame, *componere tantas lites*.

It is not my intention to discuss the much vexed question, among writers on public and political law, "how far a free government has the right and power to interfere in matters of Religion," or to charge the framers of our Constitution with an arrogant and unwarranted assumption of power, in the adoption of the obnoxious and intolerant Article, the amendment of which, forms the subject matter of this grave and exciting debate.—Sufficient for me it is, that they have exercised this power, and that among all the wise and prudent regulations for our peace, happiness and security, which that instrument contains, this alone forms a solitary exception, and affords the only engine with which the proscriptive demon of bigotry, fanaticism and prejudice may wreak its vengeance upon a portion of the free, equal and inoffensive citizens of our country, and glut its insatiable appetite upon the consciences of the followers of the living God! When I read that provision which proclaims "that no person who shall deny the being of God, or the *truth of the Protestant Religion*, or the Divine authority either of the Old and New Testament, or *who shall hold Religious principles incompatible with the freedom and safety of the State*, shall be capable of holding any office, or place of trust, or profit, in the Civil Department within this State," I pronounce an anathema—a political excommunication—far more terrible and grating to the ears of a *freeman*, than were "the thunders of the Vatican" in by-gone days, to the blind and ignorant devotee at the shrine of Papal Power and Supremacy.—Against whom is this mighty excitement directed? It is useless, sir, to disguise the fact—it is against the Roman Catholics!—They are openly and loudly denounced, as denying *the truth of the Protestant Religion*, and *holding Religious principles incompatible with the freedom and safety of the State*. Who are those who profess the Protestant Religion, and what are the tests of the Pro-

testant Religion, and what tribunal is to determine its orthodox character? Why, sir, the Shaking Quaker, who, in the honest credulity of his heart, believes that (what appears to us) fantastic capers and grotesque antics, are pleasing in the sight of God, is firmly convinced that his religious opinions constitute the perfection of Protestantism; and the host of dissenters, and schismatics, who have strayed from the great sheepfold of the more standard sects, with equal propriety and right, lay claim to the same purity, because at last, it is a mere matter of opinion. I would respectfully ask if the Presbyterian, Episcopal, Methodist, Baptist, &c. be the Protestant Religion? I fear, that in seeking for some standard of faith, these will be found to differ from each other more essentially, than does the Catholic from them all, and that this great Protestant family will be discovered to be so divided against itself, as to be unable of themselves, to conform to any uniform standard, or rule, which, in the plenitude of its power, it may prescribe for others. What are *the truths of the Protestant Religion*? A belief in the Trinity, in the divine authenticity of the Old and New Testaments, the sanctifying influences of the holy Eucharist, Baptism, &c. These, sir, constitute the standard and fundamental truths of the Protestant religion, and form the leading articles of what is denominated the Protestant faith. If it be admitted that these are the "truths of the Protestant religion," the Catholic does not *deny it*—he religiously believes them all, but he is to be excluded from office, because in the plenitude of his faith he believes more—his faith does not stop short at the right place—it is too latitudinarian "for the freedom and safety of the State." The absurdity to which this train of reasoning will lead us, conclusively shews the utter inutility of retaining this Article, and the cruel system of legislation, which holds out to the unwary and ignorant, a snare to trap the conscience and to lull the credulous into a deceitful security. It may be remarked, that if it be a mere *brutum fulmen*—if the Catholic can hold office notwithstanding its existence, and is not excluded by its practical operation, why alter or amend it? Sir, if such be its practical effect why retain it? Why do its advocates hold on to it with such determined pertinacity, and evince so much reluctance to part with it? If it has no effect, it is an useless encumbrance to the Constitution, and in the minds of many gives doubt and uncertainty to the construction of that instrument, which above all others, should be certain and well defined. But, sir, I believe that it was intended to exclude the Roman Catholics from the enjoyment of office, and such is the generally received opinion throughout the State; and this construction, instead of diminishing the proscriptive odiousness of its character, raises in high and bold relief its tyranny and oppression, and exhibits to the liberal and unprejudiced mind, the groundless fears and misconceptions of our forefathers upon the subject of religious freedom.

This article in its *judicial construction* may have failed to answer its purpose, but as has been truly remarked, more remains to be done; for though they are free by the *law*, they are not so in practice. *Public opinion* erects itself into an inquisition, and exercises its office with as much fanaticism, as fans the flame of an *auto de fe*. The certain proscription of the law, is to my mind, far less odious, and more tolerable than that of vindictive *public opinion*—the one is silent and despotic in its operation, whilst the other, fed and sustained by the bitter prejudices and passions of our nature, is deaf to the voice of reason and justice, and but too seldom fails in seeking to assert and sustain the principle for which it contends, to overwhelm in one common ruin the antagonist principles of its feeble and persecuted victim, and the fair character and reputation of him, who is intimately connected therewith. Upon this subject the people have laboured under a gross delusion.

Heaven and earth have been moved to alarm their fears and excite their feelings—misrepresentations and false statements of the Roman Catholic doctrines, have been spread far and wide—the ignorant and credulous have been threatened with a subversion of their religion—the press, the demagogue, and the fanatic, have lent their mighty aid to produce this wide-spread error and prejudice, and it has been proclaimed from the pulpit, the muster and electioneering grounds, that the dogmas of the Roman Catholic church, are replete with treason and conspiracy against the government of these United States! How miserable and contemptible must be that cause, in the minds of all honorable men, which requires for its support, a resort to an expedient so degrading to our nature, and so revolting to every christian feeling. Sir, if the Catholic were some monster in human shape, a foe to virtue, and at enmity with God and man, human language could not bestow upon him more despicable epithets, or clothe him with more hideous deformity than that which the spirit of wild and senseless bigotry and fanaticism, has invested him with. What know the mass of the people of the true doctrines of the Roman Catholic church? What know they of the character and commission of Pope GREGORY the Seventeenth? Do they know that for ages before Protestantism was conceived of, this venerable and apostolic church, dispensed the light of divine truth to a benighted and sinful world? Do they know, that “it is founded upon the Prophets and Apostles, Jesus Christ himself being the chief corner stone?” Do they know that it is one of the oldest, and most venerable Christian churches of which we have any authentic account, tracing its descent and deriving its authenticity from the Apostles themselves? Do they know that it implicitly believes in the divine authenticity of the Old and New Testaments, and that this is the rock upon which it is built? The Catholic believes that christianity existed before the

Old Testament, and that the new Revelation has come down to us in its purity through the traditions of the Fathers—these traditions too, he has incorporated in his religious faith. And I would ask, if these traditions are not entitled to *our faith*, what evidence have *we*, of the divine authenticity of the Old and New Testaments? With what weapons could we combat the infidel notion, that these sacred books are spurious in their divine character, and are the productions of mere mortal men, unaided by inspiration from above? Sir, when the Protestant demolishes the *christian character* of the Roman Catholic church, he destroys his own hopes of salvation hereafter—he cuts up by the very roots the saving faith upon which he stands—he reviles and abjures the same sacred Trinity and Holy Ordinances, which in his own church, he professes to worship and love—he rejects the same Bible, which is the standard of their common faith, and deriving, as he must, his only authentic knowledge of Revelation and a hereafter, through this venerable church, he admits their truth and authenticity, whilst he refuses to recognize her sacred and christian character. The Catholic believes in a future state of rewards and punishments—that the righteous will be saved and the wicked lost, and that those who are not entirely estranged from God, will for a time, occupy an intermediate state, which is denominated Purgatory. With a saving faith like this, he has a right to believe his to be the true and Apostolic church; and in so doing, he does not interfere with the religious privileges of others, but merely entertains that belief, which every Protestant sect triumphantly claims for its own. The Catholic is charged with advocating the heretical opinion, that the Pope is infallible; this as an abstract assertion, is false. If the doctrines of the Catholic Church conform to the sacred word of God, and the traditions of the Fathers, all who believe that those sacred sources of divine truth are exempt from error, must likewise, admit the infallibility of the church; and he who administers in holy things, in strict conformity to this divine law, must necessarily in his *acts* partake of infallibility. This is a doctrine which the most puritanical of the Protestant sects cannot deny, and instead of being a reproach and ground of persecution to the Catholic, it holds up in bold relief his faith in the sacred scriptures, and his belief that a conformity to the divine commands therein contained, will ensure eternal life. And I would ask, sir, to whom is the Catholic responsible for his faith? Is it to his God, or to the Protestant? Who invested the latter with the power and authority to tamper with and control the conscience of the Catholic? Who made him a judge of the errors, and heresies of the Catholic faith? Alas! sir, the very system of persecution and oppression which is so loudly charged upon the Catholics, is practised in a form by the Protestants, ten times more tyrannical and despotic; because in a govern-

ment constituted like this, a perversion and deception of the public opinion, amounts to the vilest and most proscriptive tyranny. Where, sir, is the blessed charity of that gospel, which at its advent, proclaimed peace and good will to all mankind? Where is that christian spirit of meekness, forgiveness and love, which is so beautifully illustrated in the life and doctrines of the Saviour of the world? Where is to be found that golden rule of doing unto others, as we would have others to do unto us? The Protestant, in his blind and headlong eagerness and zeal to proscribe the doctrines of the Catholic church and its Evangelical character, cannot have forgotten that the Bible and its saving truths form the text book of their common faith and hope.

I would ask you, Mr. Chairman, if the mass of the people in your section of the State have any just and true notions and conceptions of the character of the Pope? Have not bigotry, fanaticism and prejudice, there, too, dressed him up in the garb of a fiend—an enemy and reviler of the Protestant religion, and a foe to religious freedom and the rights of man? Do they know he is a good old man—the great Shepherd alike of the Civil and Religious rights of his people, dispensing to them the wholesome and salutary regulations of Church and State, and as venerable for his years, as he is estimable for his piety and learning. It is said that the Catholic owes an allegiance to the Pope which is in conflict with his allegiance to the Government, and therefore incompatible with the freedom and safety of the State. This declaration, Sir, is more specious and attractive, than true—for it is erroneous in fact, and those who know any thing of our Republican form of Government and its happy Institutions, must at one glance, see the utter absurdity and futility of such an assertion. The *allegiance* due to the Pope is not of a civil character, but is merely a *spiritual obedience* in matters purely Ecclesiastical, and does not detract from, or come in collision with, that obligation of subjects to Government, which, as citizens, it is their bounden duty to render. The same spiritual dominion is exercised by the *Protestant Bishops and Elders*, and the same spiritual obedience and submission are exacted of the members of the respective Protestant Churches; and yet, sir, none of these have ever entertained the opinion, that in thus acknowledging their supremacy in the dispensation of *matters purely Spiritual and Ecclesiastical*, the duty and allegiance due to the Government from them, as faithful citizens, were in the least impaired or dispensed with.—This doctrine, which, on this side of the Atlantic, is fraught with so much injustice to the Catholic, becomes a more grave and serious charge in the Kingdom of Great Britain, where, from the peculiar character of her Institutions, its tyranny and oppression is most sorely felt; and perhaps, sir, the assertion of its existence here, is made without reference to the dissimilarity in the Civil and Political Institutions of the two countries.

In England, there is an union of Church and State, and the King is recognized by law as the supreme head of both; and the Catholics acknowledge the Pope as the supreme head of their Church. Here, sir, is an obvious conflict for supremacy, which is repudiated as belonging either to the King or the Pope, by subjects of the same Realm, according to their different Religious persuasions or predilections—the Protestant Episcopalian claiming it for the King, and the Catholic for the Pope. So intimate is this connection in England, between the Protestant Episcopalian Church and the State, that the King, upon his coronation, when asked by the Archbishop or Bishop—“Will you, to the utmost of your power, maintain the laws of God, the true profession of the Gospel, and the Protestant Reformed Religion, established by law? And will you preserve to the Bishops and Clergy of this Realm, and to the Churches committed to their charge, all such rights and privileges as by law do and shall appertain unto them, or any of them?”—is bound to answer on oath—“All this I promise to do.” And, moreover, he is compelled to repeat and subscribe the Declaration against Popery, according to the Statute of Charles. And this, sir, is not all—the Catholic, before he is permitted to enjoy office, was required to pass through the fiery ordeal of the Corporation and Test Acts; which may safely be pronounced as amounting to an odious and tyrannical proscription. They demanded of him a violation of the rights of conscience, and a repudiation of some of the favorite and long cherished doctrines of his Church; they required him to receive the Sacrament of the Lord’s Supper, according to the rites of the Church of England, and they enjoined upon him the absolute necessity of taking the oath of allegiance and *supremacy*, and of making the declaration against Transubstantiation. Here, then, sir, is the test of his allegiance, and the creation of that *imperium in imperio*, which brought down upon the devoted head of the unfortunate Catholic all the pains and penalties of a *premunire*.—In accepting office, he must acknowledge the King as the head of the Church, and thereby repudiate the Pope; he must receive the Holy Eucharist from the hands of those whom his conscience taught him to believe “had no authority,” and in a manner totally repugnant to his long cherished notions of that sacred rite; and to close the scene of this warfare upon conscience, he must deny the doctrine of Transubstantiation. The Catholic in England does deny this *supremacy* of the King, and therefore may be said to refuse to acknowledge an *unqualified allegiance*; but, in this free and happy country, where no connexion between Church and State exists, and there is no Religion established by law, the charge becomes a slander upon his Religious character, and is unfounded in truth and fact. If our Protestant friends would turn their attention to their own denominations, they would find more to regret in them and less to criminate in the Catholic

Church, than their over-wrought and phrenzied zeal will permit them to believe. Why do those things which we ought not to do, and leave undone those things which ought to be done? I would not have it believed, Mr. Chairman, that while I advocate the unrestricted rights of conscience, and the abrogation of all civil disqualifications on account of Religious opinions, that I entertain any unfriendly feeling, or could be guilty of the slightest disrespect to any Protestant denomination—for “I perceive that God is no respecter of persons, and the Divine Author of our Religion came to bring “the glad tidings of salvation” alike to the Jew and the Gentile.” Is the persecution of the Catholic for conscience sake, required of us in the Bible, or by our faith? Or, are we not, like the Pharisee, conscious of our own self-righteousness, and glad that we are not, like (to us) that sinful and perverse denomination? Whence arises the diversity in our faith—the dissension in our religious opinions—the great variety of our sects—and the *want of conformity* among ourselves to any uniform standard of orthodoxy? May it not be found in the uncontrolled exercise and freedom of conscience and opinion—in the untrammelled adoption of a reasonable and popular construction of the Bible, and in the want of unity, in adhering to that excellent Catholic rule of referring all disputed and doubtful points of faith and interpretation, to a council of the great, the learned and the pious? And yet, sir, we who have no common and uniform standard of faith, require of the Roman Catholic, before he can be permitted to enjoy office, that he must not deny the truth of the Protestant Religion! This tyranny, and despotism of opinion, may well have flourished during the existence of the dark ages, but in all coming time, it will hardly be credited, that in the enlightened period of the nineteenth century, there could have been found bigotry, fanaticism, and prejudice enough, to have cherished and supported so intolerant a doctrine.

Honorable gentlemen on this floor are prepared to recount the bloody deeds, the cruel martyrdoms, and horrible persecutions, which, according to history, the Catholics, in their infuriated zeal, and bigotry, have inflicted on the Protestants. Is this, sir, a fair and legitimate argument? Have we met together here, to administer the law of retaliation? Why do gentlemen, who, on other occasions, shout their patriotic pæans, that all men are by nature free and equal, and that in this boasted land of liberty, it is a natural and unalienable right to worship Almighty God according to the dictates of our own conscience, refuse now to give a practical illustration of the sincerity of their declaration? Have the Protestants been guilty of no excesses? I will not condescend, Mr. Chairman, to expose the hideous frailty, the cruel persecutions, and moral depravity of either sect, in by-gone days, for the purpose of weighing them in golden balances, to ascertain on which side the scale of guilt will preponderate. It argues a

want of Christian charity, to visit the sins of their forefathers upon the Roman Catholics of these United States. As well might you declare a war of extermination against the descendants of the poor and miserable Jews, because their forefathers, in the blindness of their infatuation and relentless persecution, murdered the Redeemer of the World ! Why preach this crusade against the Catholic Church ? Why take upon ourselves the awful responsibility of denouncing this ancient Religious sect ? What if this be the true Apostolic Church, against which the Saviour of the World has declared, the gates of hell shall not prevail ? Persecution, sir, never did effect the object for which it was intended ; it seldom fails to create a strong and powerful sympathy in favor of its victim, and instead of crushing its unhappy subject in its infuriated fangs, it gives additional life, power and activity to its progress. If this spirit is permitted to prevail, probably the venerable gentleman from Warren (Mr. Macon) was not so far wrong the other day, when he declared, that he did not believe that the Revolution of 1688, had done any essential good—for, sir, from that has sprung the bigoted intolerance, which I am sorry to say has descended to this generation, and is too plainly manifested here. If the Catholic is excluded from the offices of honor and emolument, is there any justice or honesty in subjecting him to the taxes and drudgery of the Government ? To my mind, the exclusion from the one, and the exaction of the other, is a violation of his rights ; and if he be this poor deluded being, occupying this nondescript position in our community, our Protestant zeal might be manifested in more strict conformity to the charity of the Gospel, by sending to them the Missionary heralds of the Cross, to call them back from the errors of their ways, “to lead them to pure fountains of living water,” and to beseech them to abjure the heresies of their “mother Church” ! For if their Church be not of God it cannot prosper—it will fall without the aid and persecution of man ; but if it be of God, persecution becomes impiety and profanity, because he has declared that he will be with it “even unto the end of the world.” Common charity, Mr. Chairman, should induce us to believe the contrary, but it is much to be feared, that a bitter spirit of malignant jealousy and sectarian rivalry, has rather prompted and engendered this uncharitable and senseless persecution of our Catholic brethren, than an honest desire to promote the cause of the Gospel and the dissemination of its divine truths. Why do I say so ? Because, sir, such a course of conduct, is in conflict with the religious doctrines of the Protestant faith, does not accord with the charitable disposition and tender commiseration which they evince *even for the Heathen and those who deny the existence of God*, and is an implied admission of the weakness, fallibility and want of truth of their own faith. The first settlements of this country were produced, and the broad foundations

of this great Republic were laid by this same spirit of religious persecution towards our forefathers, which the bigoted zealots of this day, nay sir, of this hour, are now evincing against the Roman Catholics. It was a boasted birthright, to be born in a land of Civil and Religious freedom—the persecuted of all climes were invited to this asylum of the oppressed, where each man might “sit down under his own vine and fig-tree” and worship God according to the dictates of his own conscience. Restraints upon conscience, and civil disqualifications in consequence thereof, were denounced as violations of the great fundamental rights of man—taxation without the enjoyment of its concomitant civil rights, was pronounced odious and oppressive—our Pulpits, Legislative Halls, and popular Assemblies, rang in tones “trumpet tongued,” against this violent invasion upon our civil and religious rights, until this noble and indignant spirit, no longer controlled by the fear of such oppressive power, produced our great and mighty Revolution. Then, sir, we felt our own weakness and inability ‘to breast the storm,’ and thought it then no heresy to seek the aid of a Catholic King—the current of popular good-will and affection ran strong in favor of our Catholic brethren of France, and the dominant political party of our country, even after the attainment of Independence, was openly and loudly charged with being under French influence. It was not even whispered then, sir, that our Catholic friends and allies entertained religious principle incompatible with the freedom and safety of the Country, and the charge then, would have been deemed base and treasonable ingratitude. Who periled his life, his fortune and his all, in the establishment of civil and religious freedom on this side of the Atlantic? Need I, sir, mention to this Convention, the name of Lafayette—and with him, his associates in deeds of noble daring, in behalf of that sacred cause, Rochambeau, Pulaski, De Kalb and others, the Catholic defenders and supporters of civil and religious liberty, whose gallant exertions in our Revolutionary struggle, to maintain these inalienable rights of man, give the lie to the assertion that their religion is dangerous to the cause of freedom. Our country cannot too often remember, and too highly appreciate these important services, and let us not slander the memory of the illustrious dead, by imputing to their religion, a motive so utterly variant from the cause which they so nobly and manfully espoused.

What *Office*, Mr. Chairman, in North-Carolina can confer a dangerous power upon *any citizen* who may enjoy it, since those of the United States, and nearly all of the other States, are open to every citizen, whatever may be his religious persuasion? The “checks and balances” of this Government are too well regulated to apprehend any danger from the exercise of inordinate power by any officer of a State, and our peaceful State has

slumbered too long, and the people are too hard to move to cause any unpleasant apprehensions from such idle fears. I blush, sir, for the honor of my native State, when I reflect, that with the sole exception of New-Jersey, her Constitution is the only one of these United States, that contains so illiberal, intolerant and proscriptive a gag law upon the consciences of men. Just as the light of liberal and tolerant feeling is beginning to dawn upon the old world, the darkness and gloom of bigotry and superstition seem to settle upon the new. Who has not expressed feelings of sympathy for the Catholics of Great Britain? Who has not heard expressions of indignation against the system of odious oppression and disfranchisement, practised by our Protestant brethren towards the Catholic, under the sanction of the laws and institutions of that country? Who has not heard, vividly portrayed, from the pulpit, and by our public speakers, in words of burning eloquence, the happy contrast, between that and our own country, in the enjoyment of religious freedom; and who, sir, has not heard the triumphant invitation given by all to the persecuted and oppressed, to make our boasted land of liberty their home and asylum. How frail and inconsistent is our conduct? These liberal advocates, *at home*, for the liberal extension of religious privileges *abroad*, forget that *cælum non animum mutant, qui trans mare currant*. The Catholic who is invited to come among us, although he changes his *home*, does not change his *Religion*.

This feeling of toleration produced the union of England and Ireland in 1801. The Catholics of Ireland, flattered by the hopes of greater civil and religious privileges, held out to them by Mr. Pitt, assented to the Union. The King believing the terms to involve a violation of his Coronation oath, refused to sanction them, and Mr. PITT, with a magnanimity rarely equalled, rather than suffer the popular odium, thus excited, to fall upon his Sovereign, resigned. Defeat thus incurred, only served to strengthen their cause. Public sympathy and justice were aroused, and among their distinguished advocates are enrolled the bright and shining names of Burke, Fox, Plunkett, Lord Grenville, Grattan, Burdett, and a host of others, eminent alike for their talents and liberality. I will not neglect to mention the great intellectual battle fought by the accomplished Canning, in the debate upon this favourite measure of his Administration, during the year 1825, nor to announce the melancholy result, that it was lost in the House of Commons by only a majority of three votes. Then, sir, came the Administration of the great Captain of his age, who was destined to triumph alike over the foes of his country abroad, and her inveterate prejudices at home. Aided by Sir Robert Peel in the House of Commons, this great victory in favor of the rights of man was achieved by the Duke of Wellington, and Catholic Emancipation finally established, in despite of the power and violent opposition of the Duke of Cumberland, Lord Eldon, and

the whole nation ; and now, sir, the Roman Catholic in Great Britain is eligible to all the offices of State, excepting the Lord Chancellors of England and Ireland, the Lord Lieutenancy of Ireland, the office of Regent or Guardian of the United Kingdom, High Commissioner of Scotland, the right of presentation to livings, and all places in the Ecclesiastical Courts ; and in all offices they may fill, the Church patronage connected therewith is invested in the Archbishop of Canterbury. From these, they must be forever excluded as long as the institutions of Great Britain remain as they are, for the reasons which I have heretofore assigned. How liberal and noble does this conduct appear, when contrasted with the narrow-minded prejudices which would exclude them from the high and dignified offices of Governor, Judge, Brigadier General, Justice of the Peace and Constable, in North-Carolina ?

In the nineteenth article of our Bill of Rights, the broad and liberal declaration is made, "that all men have a natural and inalienable right to worship Almighty God, according to the dictates of their own conscience," and in the thirty-fourth Article of the Constitution it is expressly laid down, that there shall be no establishment of any one Religious Church in this State, in preference to another, &c. but all persons shall be at liberty to exercise their own mode of worship. What sir, are the natural and inalienable rights of man ? They are absolute rights, which Mr. Justice Blackstone denominates the natural liberty of mankind, and defines properly, to consist in a power of acting as one thinks fit, without any restraint or control unless by the law of nature : being a right inherent in us by birth, and one of the gifts of God to man at his creation when he endued him with the faculty of free will. Can you, sir, abridge or restrain this natural and inalienable right, unless you violate all fundamental principles ? Know you not that an attempt to do so, produced those invaluable guaranties of the rights of man, *Magna Charta*, the petition of right, the Habeas Corpus Act, and the Act of Settlement, which the Englishman hugs to his bosom, as the sheet anchor of his safety ? All Religious Test Laws which infringe the rights of conscience are a violation of this right, whether contained in the Constitution of a Government or the acts of its Legislature ; for this natural right is superior to these creatures of society. Then, sir, why gag the Catholic with this article, which conflicts in spirit and I might almost say, in the letter, with those liberal provisions of our Constitution, to which I have just alluded ? He is permitted by the Constitution to exercise his own mode of worship, and we are prohibited from establishing any one Religious Church. You regard him as a *harmless citizen*, but believe that he would make a *dangerous officer* ! This, in practice, has proven to be a distinction without a difference, but I can well conceive, that to

a heated and bigoted imagination, it is fraught with treason to the Government. So easily, sir, do we surrender our judgment to our sectarian interests ! Treason against the Government ! Why, sir, have we not seen the embattled legions of the Catholic troops of Buonaparte engaged in deadly warfare with those of Spain and Portugal—Catholic armed against Catholic, upon the bloody fields of Austria, in mortal strife—the same scene of deadly hostility between Catholic brethren, deluging with their very life's blood the sunny fields of Italy and the vine clad hills of France ? Nay, sir, have we not seen the Catholic armies of France conquering the Pope himself, and bringing him a captive from the Papal See to the French dominions ? History and facts furnish to the advocates of intolerance an unfortunate commentary upon this doctrine of allegiance to the Pope, and faithless obedience to the Government. Then, sir, is there any great urgent necessity, "which knows no law" that requires this article to be retained ? Upon this subject every honorable member is silent ; and as Mr. Paley well remarks, "the inexpediency of laws and acts of authority, make them tyrannical." Who constitute the great mass of Catholics in these United States ? With a few honorable exceptions, they are foreigners, whom the policy and institutions of our country have invited to our shores. If their Religion is dangerous to the Government and incompatible with our institutions, will this 32d Article remedy the difficulty and shield us from the danger to be apprehended therefrom ? If this be an evil, I know of no other remedy than the revival of the Alien and Sedition laws, to which from the complexion of parties on this floor, there would be equally as great a repugnance, as is evinced for a liberal amendment of this article. When, sir, I reflect, that there are one hundred and sixteen millions of Catholics in the world, and only fifty-four millions of Protestants, and these split up into as many sects and denominations as "construction, contortion and distortion" can give to the disputed points of faith, and having as little charity for each other as some of them have for the Catholics, I cannot but regard this puny effort to put down the Roman Catholic religion, as truly characteristic of the spirit that conceived it, and every way unworthy of a great and high-minded State.

If, sir, a spirit of persecution has characterized the progress of the Catholic religion in the old countries in other times, what has been its history in our own country, on this side of the Atlantic ? I beg the attention of the Committee to the following extract, from a learned and distinguished Protestant author : "The Legislature of Maryland had already in 1649 declared by law, that no persons professing the Christian religion should be molested in respect of their Religion, or in the free exercise thereof, or be compelled to the belief or exercise of any other re-

ligion against their consent." Thus to use the words of a learned and liberal historian the Catholic planters of Maryland procured to their adopted country, the distinguished praise of being the first of the American States in which toleration was established by law; and while the Puritans were persecuting their Protestant brethren in New-England and the Episcopalians retorting the same severity on the Puritans in Virginia, the *Catholics*, against whom the others were combined, formed in Maryland a sanctuary where all might worship and none might oppress, and where even Protestants sought refuge from Protestant intolerance; and Chalmers in his *Annals* remarks, that the Proprietaries of Carolina, for the better encouragement of settlers, declared concurrently with the Rhode Island charter (1663) that all persons settling therein should enjoy the most perfect freedom in religion. Thus, sir, does history redeem the Catholic character in this country, and fix a reproach upon North-Carolina, of an intolerant and deceitful character; for whilst South-Carolina, conscious of the inducements and hopes held out by the Proprietary Government to the Catholics to settle among them, adopted the same spirit of religious tolerance into her Constitution, our own State, with the same knowledge, and under the same high and honorable obligations, proscribed them with the intolerant article now under discussion. And I may add, that even Locke, in his Constitution of Carolina lays down the broad and fundamental rule in relation to *servants* and their religious privileges, that "Religion ought to alter nothing in a man's civil estate."

I have endeavored, Mr. Chairman, in the absence of all express authority, to seek for the motive which induced our fathers to adopt this article; and may it not be found in the persecuting spirit of the Puritans in this country, and in the violent religious contest for power in the mother country, from the time of Henry the Eighth to William the Third; for, sir, History informs us, that this struggle for ascendancy, and succession to the throne, between the Protestants and Catholics, was continued with unremitting vigor and severity, until the infatuated conduct of James the Second produced the Revolution in 1688, which resulted in his abdication of the throne, and the final establishment of the Protestant succession in William and Mary. To pursue this idea further, may not the fear of a recurrence of this unhappy state of things, have induced them to turn their attention to this momentous period in the history and struggle of the mother country for peace and good order, and caused them to adopt some of the statutory provisions which were framed for the protection of religion. For, Mr. Chairman, by reference to the Statute of 9 & 10, William the Third, which enacts, "that if any person educated, &c. in the Christian religion, shall, by writing, printing, teaching, or speaking, deny the Christian religion to be true, or the Holy

Scriptures to be of Divine authority, he shall, &c. be rendered incapable of holding any office or place of trust." there seems to be such a coincidence between the phraseology of that Statute and the 32d Article of our Constitution, as to induce me to believe, that the framers of our Constitution had that Statute in view, and the difficulties to be remedied thereby; and which would seem to have been adopted by them, with this essential difference, that in the Article of the Constitution, they do not prescribe *in what manner* you shall *deny the truth of the Protestant religion*, to incur the penalty of its provisions. This opinion receives very great additional support, from the able pen of a distinguished young gentleman (Mr. Joseph Seawell Jones,) who has preserved the only traditionary reminiscence of this Article of our Constitution. I quote, sir, from his defence of North Carolina.

"In the Constitution of North Carolina, there is a clause restricting offices of trust and profit, to those who believe in the truth of the Protestant religion. This singular feature now strikes every one with astonishment, and provokes the almost universal condemnation of the educated gentlemen of the State. It is so repugnant to the feelings of an *American*, it is so contrary to the nature of our institutions; to the very spirit of the Revolution, that I was for a long time ashamed of it, as an instance of gross bigotry and illiberality. Confident, however, that the irresistible force of public opinion would never suffer an honest citizen to be deprived of the reward that was due to his merit, I consoled myself with the reflection, that it was a dead letter.— Subsequent investigation into the private papers of those who formed it, has convinced me, that its importance has been magnified, and that the omission of the word *Episcopal* in the original resolutions and *draft*, was considered as an establishment of the Christian religion."

Unfortunately, sir, for the honor and liberal character of our State, public opinion has never considered this *to be a dead letter*, and as *Protestant* is the religious antipode of *Catholic*, no argument, however, ingenious or refined, can convince it, that the latter is not excluded. This opinion, Mr. Chairman, derives much strength, when we refer to the political character of a large number of those who framed our Constitution. The Convention was divided into two parties, the *conservative*, and the *Whig* parties; and whilst the former, possessed of more talent and ability, sought to preserve the right of property, with as little departure as possible from the civil and religious institutions of the mother country, the latter seeking the other extreme, evinced a desire to reduce the whole political system to the lowest radicalism and wildest democracy. Among those who belonged to the former party, will be found the eminent names of men, who were distinguished for their love of the dignity and ceremony of State, their devotion to the Protestant Episcopal faith and the *High*

Church party, and their consistent and unwavering opposition to a radical innovation and change, in *all* the institutions of the country. With materials like these, it may well be imagined, that the High Church party were anxious to preserve the religious faith of their ancestors, and to protect it with the strong arm of the fundamental law of the land—and the more is this opinion entitled to credit, since the Bill of Rights and Constitution was said to be the production of *Thomas Jones*, a distinguished and determined member of that party. Now, sir, to have a practical illustration of the unjust and oppressive character of this article, suppose the word *Episcopal* had been retained in the Constitution! What, in this enlightened day, would have been the consequences? Why, sir, the Methodists, Presbyterians, Baptists, and every denomination that dissented from the Protestant Episcopal church, would have risen, as one mighty and united people, from the mountains to the sea-shore, and pulled down this odious fabric of the bigotry, and illiberality of our fathers.—Well, sir, might I apply here, the Hudibrastic couplet, so appositely quoted by the distinguished gentleman from Cumberland, (Mr. Toomer,) at the opening of this Convention :

“Strange that such difference there should be,
’Twixt tweedle dum and tweedle dee.”

When we are taught “to feel the woes that others feel,” then, sir, I fear a returning sense of justice, rather than the exercise of religious charity, prompts us to “do unto others as we would have others do unto us.”

Mr. Chairman, I have been attached to the Protestant Episcopal church from my infancy, and taught to believe in its saving faith and apostolic character; but, sir, I would be the last man in this community to fetter the conscience of any individual, or to proscribe him from office, for his religious opinions. Whilst all seem to admit that the Catholics are excluded by this article, have the Protestants nothing to fear from its operation? What power, sir, has the right to determine the truth of the Protestant religion, and to prescribe what denominations hold religious principles incompatible with the freedom and safety of the State?—I answer, sir, the General Assembly of the State! And who can tell, in all coming time, to what excesses and enormities this spirit of religious persecution may lead us, in proscribing each other, as one sect or denomination of Protestants may gain the power and ascendancy in our Legislature! This two-edged sword should be deprived of its keen and merciless sharpness.

I would beg, Mr. Chairman, to call the attention of the Committee to the wisdom and liberality contained in those two Articles of the Constitution of the United States, which declare that “no religious test shall ever be required as a qualification to any office or public trust under the United States; and Congress shall

make no law respecting an establishment of religion, or prohibiting the free exercise thereof!" It is ably remarked by Mr. Justice Story, in his commentaries upon these Articles, that the framers of the Constitution were fully sensible of the dangers from this source (union of Church and State) marked out in the history of other ages and countries, and not wholly unknown to our own. They knew that bigotry was unceasingly vigilant in its stratagems to secure to itself an exclusive ascendancy over the human mind, and that intolerance was ever ready to arm itself with the terrors of the civil power to exterminate those, who doubted its dogmas, or resisted its infallibility. It is easy to foresee, that without some *prohibition* of religious tests, a successful sect in our country might, by once possessing power, pass Test laws, which would secure to themselves a monopoly of all the offices of trust and profit under the National Government. The only security, therefore, was in extirpating the power. Who, sir, does not recollect the debate in our Convention of 1788, upon these very articles of the Constitution of the United States, by some of the very men, who contributed largely to the formation of our State Constitution. And who does not, with pride and exultation of feeling, admire the high-toned liberality of feeling and sentiment expressed in their speeches? The apposite character of that debate to the one in which we are now engaged, and the great talent and integrity of the speakers, may afford some apology for troubling this Convention with their remarks.

Mr. Henry Abbott expressed his fears, that the abolition of all Religious Tests, would be productive of injurious consequences. Mr. Iredell, of whom I have taken an opportunity on a former occasion during this Convention to express my very great admiration and respect, immediately replied, "that he did not expect any objection to this particular regulation, which is calculated to prevent evils of the most pernicious consequences to society. Every person in the least conversant in the history of mankind, knows what dreadful mischiefs have been committed by religious persecutions. Under the color of religious tests, the utmost cruelties have been exercised. Those in power have generally considered all wisdom centered in themselves; that they had a right to dictate to the rest of mankind and that all opposition to their tenets was profane and impious. The consequence of this intolerant spirit had been, that each church has in turn set itself up against every other, and persecutions and wars of the most bloody nature have taken place in every part of the world. America has set an example to mankind to think more modestly and reasonably; that a man may be of different religious sentiments from our own without being a bad member of society. The principles of toleration, to the honor of this age, are doing away those errors and prejudices, which have so long prevailed even in the most intolerant countries. In the Roman

Catholic countries, principles of moderation are adopted, which would have been spurned at a century ago. I should be sorry to find when examples of toleration are set, even by arbitrary governments, that this country, so impressed with the highest sense of liberty, should adopt principles on this subject that were narrow and illiberal. I consider the clause under consideration as one of the strongest proofs that could be adduced, that it was the intention of those who formed this system to establish a general religious liberty in America. Were we to judge from the examples of religious tests in other countries, we should be persuaded that they do not answer the purpose for which they are intended. What is the consequence of such in England ! In that country no man can be a member of the House of Commons or hold any office under the Crown, without taking the sacrament according to the rites of the church. This in the first instance, must degrade and profane a rite which never ought to be taken but from a sincere principle of devotion. To a man of base principles, it is made a mere instrument of civil policy. The intention was to exclude all persons from offices but the members of the Church of England. Yet, it is notorious, that dissenters qualify themselves for offices in this manner, though they never conform to the church on any other occasion ; and men of no religion at all have no scruple to make use of this qualification. It never was known that a man who had no principles of religion, hesitated to perform any rite when it was convenient for his private interest. No test can bind such a one. I am therefore clearly of opinion that such a discrimination would neither be effectual, nor if it could, ought it by any means to be made ? Upon the principles I have stated, I confess the restriction on the power of Congress in this particular has my hearty approbation. They certainly have no authority to interfere in the establishment of any religion whatsoever, and I am astonished that any gentleman should conceive they have. Is any power given to Congress in matters of religion ? Can they pass a single act to impair our religious liberties ? If they could sir, no man could have more horror against it than myself. Happily no sect here is superior to another. As long as this is the case, we shall be free from the persecutions and distraction with which other countries have been torn. If any future Congress should pass an act concerning the religion of the country, it would be an act which they are not authorized to pass by the Constitution, and which the people would not obey. Every one would ask, "who authorized the government to pass such an act ? It is not warranted by the Constitution, and is a barefaced usurpation ?" The power to make treaties can never be supposed to include a right to establish a foreign religion among ourselves, though it might authorise a toleration of others.

But it is objected, that the people of America may perhaps choose Representatives who have no religion at all, and that

Pagans and Mahometans may be admitted into offices. But how is it possible to exclude any set of men, without taking away that principle of religious freedom which we ourselves so warmly contend for. This is the foundation on which persecution has been raised in every part of the world. The people in power were always in the right and every body else wrong. If you admit the least difference, the door to persecution is opened. Nor would it answer the purpose, for the worst part of the excluded sects would comply with the test, and the best men only be kept out of our councils. But it is never to be supposed that the people of America will trust their dearest rights to persons who have no religion at all, or a religion materially different from their own. It would be happy for mankind if religion was permitted to take its own course, and maintain itself by the excellence of its own doctrines. The Divine Author of our Religion never wished for its support by worldly authority.

This article is calculated to secure universal religious liberty, by putting all sects on a level—the only way to prevent persecution. I thought nobody would have objected to this clause, which deserves, in my opinion, the highest approbation. This country has already had the honor of setting an example of civil freedom, and I trust it will likewise have the honor of teaching the rest of the world the way to religious freedom also. God grant both may be perpetuated to the end of time. True religion is derived from a much higher source than human laws. When any attempt is made by any government to restrain men's consciences, no good consequence can possibly follow. It is apprehended that Jews, Mahometans, Pagans, &c. may be elected to high offices under the government of the United States. Those who are Mahometans, or any others who are not professors of the Christian religion, can never be elected to the office of President, or other high office, but in one of two cases. First, if the people of America lay aside the Christian Religion altogether, it may happen.—Should this unfortunately take place, the people will choose such men as think as they do themselves. Another case is, if any person of such a description, should, notwithstanding their religion, acquire the confidence and esteem of the people of America, by their good conduct and practice of virtue, they may be chosen. I leave it to gentlemen's candor to judge what probability there is of the people's choosing men of different sentiments from themselves.

Opinions like these, emanating from so high and respectable a source, are entitled, Mr. Chairman, to the greatest respect; and when I look around upon the grey heads which surround me, the very badges as it were, of cool and unimpassioned reason, I cannot but flatter myself that this foul blot upon the fair escutcheon of my native State, will be wiped off forever. I cannot before I resume my seat, fail to call the attention of the Committee to the Virginia Act, for the toleration of Religious

Freedom, which was the production of the distinguished *Jefferson*. [Here Mr. B. read the Act as follows :]

An Act for establishing RELIGIOUS FREEDOM, passed in the Assembly of Virginia in the beginning of the year 1786.

Well aware that Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporal rewards which, proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labors for the instruction of mankind; that our civil rights have no dependence on our religious opinions, more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to the offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow-citizens, he has a natural right; that it tends also to corrupt the principles of that very religion it is meant to encourage, by bribing, with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed those are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles, on the supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail, if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them.

Be it therefore enacted by the General Assembly, That no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

And though we well know that this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding Assemblies constituted with the power equal to our own, and that therefore to declare this act irrevocable, would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right.

Well might that great and celebrated man, declare that he wanted no other Epitaph on his tomb, than the simple but no-

ble inscription, "Here lies the Author of the Declaration of Independence, and the Act for the toleration of Religious freedom!" Few men have lived in any age or country, to whose political opinions such implicit faith has been given; and but few men have enjoyed so successfully the power and influence of public opinion; and, sir, whilst so many of us have so unhesitatingly subscribed to his political doctrines, let us not evince our heresy to this, which he deemed co-equal with the proudest and most transcendent act of his life. Jefferson was for universal toleration; and "when through some dim, but coming years" the political transactions of his life shall be obscured and swallowed up by the "surpassing glory" of some more popular favourite, "the glowing memory" of his countrymen will linger around this Act, as the imperishable manifesto of the great rights of man. I will not lend my feeble aid to impair those rights—I will not tamper with conscience—I will not offer a bribe to that "divinity which stirs within us." I would not close the avenues of preferment, to any of the children of the great family of mankind, for I have too much faith in the stability of our institutions, and in the virtue and discernment of our citizens. God grant that this may be a day of proud exultation to my native State—God grant that the spirit of religious liberty and toleration may form "one of the polished corners of her temple," and God grant that the feelings of affection which we have here evinced for each other, may like the star of the East, proclaim throughout her borders, peace and good will to all mankind.

Mr. Chairman, my exhausted strength and feeble health, warn me to cease; and I should be ungrateful, indeed, if I failed to appreciate the kind and indulgent attention with which the Committee have favored my remarks.

The Committee then rose, reported progress, and obtained leave to sit again

SATURDAY, JUNE 27, 1835.

After Prayer by the Rev. Mr. Jamieson,

On motion of Mr. EDWARDS, the Convention again resolved itself into a Committee of the Whole on the Resolution in relation to the 52d Article of the Constitution, Mr. Fisher in the Chair.

Mr. CARSON, of Burke, said, that having been confined to his room for several days by indisposition, and fearing a return of his sickness, he would avail himself of the present opportunity to submit a few remarks on the question under discussion—and they would necessarily be few, on account of his physical prostration.

Mr. C. said, that he had not anticipated, on his arrival here, that there could be any difference of opinion on this subject. He thought the age we lived in, forbade it; but the course which the debate had taken, had undeceived him. The principal argument which he had heard mentioned, why the clause should not be stricken from the Constitution, was, that in its practical operation it did no harm. But, suppose we permit it to remain where it is, and thus virtually re-enact it, will it continue long innoxious!

I shall not, Mr. Chairman, said Mr. C. go into history to draw thence any conclusions, but shall base myself on this great fundamental right—I am the creature of God, and to that God I am accountable. Who can interpose between my conscience and its Almighty Author? If any man can convince me, that he is to be made responsible for my conduct on earth, and I am consequently released from personal accountability—then I may acquiesce in your Religious tests. But until so convinced, I go for striking out the whole article.

Mr. C. said he had heard some gentlemen say, in out-door conversation, that they felt themselves instructed to vote against any alteration of this article. No man believed more implicitly than himself in the right of instruction, when legitimately exercised. In any temporal matter he would receive instructions and obey them; but, he would permit no one to prescribe a rule of action for him in religious matters, except such godly persons as he might chose to consult for spiritual edification. No man should presume to dictate to him as to what Church he should attach himself. Whence could any man derive this right? Had any one been instructed by his God to instruct any delegate here? No earthly authority, certainly, could confer such right. Of all the instructions he ever heard of, Mr. C. said, this instruction about Religious restrictions, was the most ridiculous and absurd!

Mr. C. said, he had not attached himself to any Church. He had his preferences; arising, however, more from the influence of education, than any religious feeling. It might be, that at some day he should attach himself to the Catholics. If so, and there should be any thing in the Constitution of the State which gave him birth, and which had in some degree honored him, that would prevent him from aspiring to office, he should, indeed, think it hard. But he protested again and again, against the right of any man to interpose between him and his Maker.

In conclusion, Mr. C. said, if this article were retained in the Constitution, in its present shape, he should vote against its ratification, he did not care how beneficial the remaining provisions were. More—if his voice should ever again be heard by his constituents, it would be raised for the purpose of denouncing an Article so unbecoming the spirit of the age in which we live.

Mr. COOPER said, he could not keep his seat and refrain from giving his views on the subject. Our good old Constitution had

been standing for more than 50 years, without any interruption; this Article had been a dead letter, and there was no use now in repealing it. The notions of gentlemen change; the older they get, the wiser they get; but we ought certainly to guard against any thing calculated to embarrass our liberties. He did not know but there was some as honest Roman Catholics as any other religion, and when he found one, he would protect him and take him by the hand; but, in the protecting of this one, we must take care we don't let in a thousand dishonest ones. The Roman Catholic is the very offspring of a despot. Our fathers saw the necessity of the Article, and placed it where it is. They knew what a Roman Catholic was, and was afraid, if they didn't put something of this sort in, they might hereafter have a harder struggle than they had just got out of.

Sir, said Mr. C., we had better let it stand as it is. The people are well apprised that this Article is in the Constitution, and they would never agree to have it blotted out. Take it out, and the people will say that the Convention has usurped power, and wants to bring oppression on them, and seize their liberties. There were some honest men among the Catholics, but while we know the doctrine is a dangerous one, we ought to exclude them. He was willing to acknowledge, that among the Catholics of this State there were some worthy men; but men had nothing to do with this question; we should decide it on principle, broad principle.

Mr. C. said, in his section, there was not one gentleman in a hundred that wanted this Article touched. He should vote himself to retain it, and called upon the other delegates to do so likewise. If the people find out that the provision is more hostile to the Roman Catholics than they imagined, they can call another Convention—it is not so much trouble—to amend it again. The people did not want to step between a man and his Creator, and would, no doubt, rectify this matter. But they did not expect this Convention to touch that Article, and he hoped it would not be done.

Mr. WELLBORN hoped there would be no more words struck out of this Article of the Constitution than was necessary to effect the object in view. At the same time that he wished it to be so amended, as to admit to office Christians of every denomination, he was unwilling to strike out those parts of it which prohibited the introduction of Atheists and Infidels from having any thing to do with the administration of the Government. Considerable excitement, he said, existed in some parts of the country, and fears were entertained that some mischief might arise from doing away this article. He hoped, therefore, that some respect would be paid to public feeling, and that no more of the Article would be struck out than was deemed necessary.

Mr. COOPER said, he would be glad that those who wished this Article of the Constitution to be amended or expunged, could agree among themselves as to the manner of effecting their object. He did not wish to see a single word of it changed. He wished to keep out of office all those which this section guarded against. He had been told by a person who heard a Catholic say, that it made no difference to him whether he swore on the *New Testament* or a *Spelling Book*! He did not think that such men ought to be trusted. He said that there had been a great deal of blood shed about the Religion, and he was afraid, if this section were expunged, there would be more. He did not care how wise men were, if they did not agree with the general opinion in religion, they ought to be looked after.

Mr. SMITH, of O. said, from the situation he occupied, in relation to the subject under discussion, he found it necessary to express his opinion upon it. It was well known, that, for years past, the amendment of the Constitution had been a matter of discussion among the people, especially in the western part of the State. At the last session of the General Assembly, certain amendments were proposed, and the people were called upon to say whether a Convention should be called to frame and devise specific amendments to the Constitution, and propose to their discretion several other matters for consideration, amongst which was the amendment of the 32d Article of the present Constitution.

Whence, asked Mr. S., did this suggestion arise? Who originated it? Did the people at large call for it? Was there any public meeting held upon the subject, or any expression of the will of the people upon it? No; it was the voluntary act of some one. And when he expressed his unwillingness to meddle with this section, he spoke the sense of his constituents. It was with difficulty the people in his county could, on this account, be brought to vote for the Convention.

It is, said he, an agitating question; but as it became necessary to enquire whether any amendment was necessary to be made to this article, it would be necessary to look at the Constitution. The 19th Article of our Bill of Rights declares, "that all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience." And he would go as far as any one to secure to every man his right. But when man enters into society, he has to surrender a portion of his natural rights. What says the 31st Article of our Constitution:—"No Clergyman or Preacher of the Gospel, of any denomination, shall be capable of being a member of either the Senate, House of Commons, or Council of State, while he continues in the exercise of the pastoral function." We see, by this article, that a class of men, perhaps better qualified than any other to perform the duties of office, are excluded. But Mr. S. denied that any citizen had been debarred of his natural rights by the

32d Article. Who, he asked, had been denied office under it?—Have the Catholics been excluded? They had not—they had held seats in the Legislative Hall, and occupied the highest seats on the Judicial Bench.

When we take into view the natural rights of man, are there no other rights as well as the rights of conscience? Where are the rights of persons and liberty? Do they not stand next to our duty to God? These hypothetic opinions, he said, formed excellent themes for declamation. No scruple was made, some days ago, in taking away the remnant of liberty possessed by the free colored people. Mr. S. referred to the 34th section of the Constitution, to shew, that every man is entitled to a free exercise of his religious opinions. Mr. S. here referred to the excitements and disorders of the French Revolution, during the reign of Danton and Robespierre. It was true, he said, that the 32d Article of the Constitution was at present useless—it was a dead letter; but the time might come when it would be needed, and he trusted it would never be used until some great emergency should arise. This Article had been in existence nearly sixty years, without being called into exercise. The present excitement in his part of the country could not be judged of by persons at a distance; it was such as to have prejudged the question, and such as could not be easily overcome.

He wished this section to be laid aside as Sleeping Thunder, to be called up only when necessary to defeat some deep laid scheme of ambition. He would prefer for this purpose the keeping the Constitution as it is. The people in his county were opposed to making any great innovations on the old Constitution, and he did not like to thwart their views. He should fear much, if this 32d Article was disturbed, the Constitution, as amended, would not be ratified by the people. He, therefore, called on the friends of the amended Constitution, not to agree to any amendment of minor importance which might induce the people to reject the Constitution as amended.

Mr. SWAIN disliked to keep the Sleeping Thunder of this section, (as the gentleman from Orange termed it,) to be used in some emergency hereafter. He did not like to leave it in the hands of men in power, who might hereafter abuse it, by

“ Dealing damnation round the land,

“ On all they deem’d their foe.”

Mr. BRANCH said, on hearing that the question on this 32d Article would be probably taken to-day, he had come to the House, though indisposed, to give his vote upon it. The framers of our present Constitution, considering the circumstances under which they acted, deserved great credit for their labors. It was true they did not go quite far enough; but, under it, our State had attained a high character both at home and abroad. He believed with the gentleman from Orange, that the obnoxious portion of

the Article had been inoperative; but this Convention having been expressly charged with the consideration of the subject, it ought to be expunged from the instrument as being unworthy to remain in it. Our Constitution, he believed, was the only one in the Union which had retained in it any thing like religious persecution. If the whole of this section were stricken out, he could not believe it would be much regretted by any of our constituents; but he had no desire to do more than was deemed necessary.—He came here to co-operate with the friends of Reform, in order to fix our Representation on a fair and firm basis. He did not mean to enter at large into the question as to the preference which ought to be given in favor of one faith over another. He wished to see Religious opinions of every description free from all restraint. He could not believe with the gentleman from Orange, that any amendment which the Convention might deem it necessary to make in this Article, would produce any shock on the feelings of any considerable portion of the people of this State. He believed, that if any improper excitement had been produced on the minds of the people, it would be necessary only to communicate to them more correct information on the subject, in order to rectify the erroneous impressions into which they have been led.

Mr. CRUDUP said, as he should be called upon to vote on this question before the Committee, he thought it necessary to give some of the reasons which would govern his vote. No man could hold the rights of conscience more sacred than he did. He believed the Article in question had been considered as a perfect nullity, and had, therefore, done no real injury to any one. Liberty of conscience has on all hands been considered as an unalienable right. No Government can interfere between man and his Maker. Mr. C. said he made a distinction between partial and complete toleration, and took a pretty general view of the state of Religion in different countries. All the institutions of this country, he said, acknowledged the truth of the Christian Religion; and whoever impedes its progress, is considered as impeding the happiness of man.

Mr. C. said, though he came to the Convention with an intention of voting for an amendment of this Article, his intention had been somewhat staggered by the arguments used in favor of the measure. Nor did he think the true merits of the question had yet been touched.

It had been remarked by the gentleman from Orange, that the Convention must be careful how it approaches the Article in question; that the passions of the people are excited, and that the ratification of the Constitution would be hazarded by meddling with it.

Mr. C. entertained a high respect for public opinion, but he should think that it would be generally admitted that no profess-

ing believer of Christianity ought to be excluded from office—further than this, he was unwilling to go.

With the gentleman from Halifax, (Mr. Daniel,) he believed the Pope of Rome possessed no temporal power, except over a small province of Italy. He had therefore no fear of his temporal power encroaching on this country. Indeed, the despots of Europe would at all times keep him in check.

Mr. C. did not believe that Popery was changed. He believed it would continue an unit, and be the same. He knew that it had been an opinion long urged against the Catholics of this country, that they held principles inimical to free government; but nothing of this kind had ever been substantiated against them, and facts were the best evidence in their favor. Mr. C. then adverted to the persecutions which the Catholics had undergone in different parts of Europe, and especially in Ireland.

The spirit of the age, said Mr. C., calls aloud for more liberal opinions on the subject of Religious Liberty. He had hoped that the time had passed for entertaining any fears from Popery in this country. The Bible Societies of England and America had done much in enlightening and liberating the public mind on the subject of Religion in all parts of the world.

The only proper mode of meeting the efforts which are said to be now making by the Catholics in the Valley of the Mississippi and elsewhere, to spread their doctrines, is for the Protestants of all sects to become more united amongst themselves. By doing away all petty divisions and strifes, and exerting all their moral influence in support of the great doctrines of the Reformation, they would then have nothing to fear on the score of their Religion.

Mr. C. concluded with expressing his belief that great prejudice and excitement existed on this subject, which it would require some time to allay.

Mr. MACON said, he took the broad ground that man was alone responsible to his Creator for his Religious faith, and that no human power had any right to interpose in the matter, or to prescribe any particular opinions as a test of fitness for office.—If a Hindoo were to come among us, and was fully qualified to discharge the duties of any office to which he might aspire, his religious belief would not constitute an objection, in his opinion, why he should be debarred. Who made man a judge, that he should presume to interfere in the sacred rights of conscience? He had always thought that a mixture of Politics and Religion was the very essence of hypocrisy.

Mr. M. said, some gentlemen had expressed the opinion that this Article, as it now stood, could do no harm. Who can tell to what the spirit of proscription, on which it is based, may lead. A spark may fire the world. Events push each other along, and one passion but serves to enkindle another. So far as he was in-

dividually concerned, it mattered not what provisions were incorporated in the Constitution. His time had most come. But this Article was the only feature in the old Constitution which he had ever heard objected to, out of the State; and the objection was alwas coupled with an expression of surprise, that it could have got foothold in a State where the principles of Liberty were so well understood. There were times, when a man, if a true Patriot, must stake himself for the good of his country. The present was a crisis of that kind.

When our country was in distress, said Mr. M. in our Revolutionary struggle, we applied to Catholics for assistance, and it was generously extended. Without foreign assistance, we never should have achieved our independence.

Mr. M. said a part of the Article referred to Atheists. He did not believe there ever was an Atheist, whatever his nation or color. It was impossible for any man to look at himself, at the water, at the animal and vegetable kingdom, at the sun, moon or stars, without acknowledging the existence of a GREAT FIRST CAUSE.

What gave rise to the first settlement in North Carolina?—The persecutions in New England and Virginia. New England, to use the language of a great man, was settled by the Puritans of the Puritans—Virginia was settled by Episcopalians. These two States never had any intercourse until the Revolution. This goodly land, we inhabit, was discovered by Catholics. Should not this fact occur to us when we talk about disfranchising them?

To him it appeared too plain a question to argue, that every man may worship God according to the dictates of his own conscience. But it is a practical denial of its truth to debar a man from office, because he may entertain certain Religious opinions. There was one member of this Convention whose father had been inhumanly murdered by the Tories in our Revolutionary struggle—he begged pardon for the allusion, but it was history—and shall it be said, that his son, baptised, as it were, in the blood of his father, is unworthy a seat in the Legislature of our country? No, sir, no gentleman would say this. The Christian Religion was founded on good will and peace to man. Examine the Redeemer's sermon on the Mount—Is there any persecution there? And who made us greater than HE, that we should proscribe our brethren for opinion's sake? You might as well attempt to bind the air we breathe, as a man's conscience—it is free—liberty of thought is his unalienable birth-right. He never heard this great out-cry against Religious freedom, but what he was forcibly reminded of the Pharisee and Publican. He was too tired to repeat it; but every body remembered it.

Roger Williams, of Rhode Island, Mr. M. said, was the first man to establish Toleration in North America—he was a Puritan. Charles Carroll, of Carrollton, the man who staked more

by signing the Declaration of Independence than any other individual, was a Catholic. As he stepped up to sign, some person remarked, "there goes two millions with the dash of a pen!" Another friend remarked, "Oh, Carroll, you will get off, there are so many Charles Carrolls." He stepped back and added, "of Carrollton." Mr. M. alluded also to the character of Bishop Carroll, a man so pure, that even sectarian bigotry could find nothing to allege against him. It was not, therefore, the particular Religious notions, which a man entertained, that made him a good citizen or a good man.

Mr. M. said, fears seemed to be entertained by some gentlemen, that the Roman Catholics would overrun the country.— They might do it, but he did not think it was half as probable, as that a mouse would kill a buffalo! Let them come when they will, Mr. M. said, he would lay a wager that the Protestants converted *two* to the Catholics *one*. As for himself, he was inclined to the Baptist Church, and he did not care who knew it; but he was far from believing in all their doctrines. Neither did he believe it essential, that a man should attach himself to any particular Church. If he faithfully discharged all his duties on earth, and obeyed the precepts of the Gospel, he would not be asked, when he reached Heaven, to what sect he belonged.

Mr. M. said, in conclusion, he would not have troubled the Committee, but he did not wish any one to believe that he was disposed to *skulk* from responsibility. He was not vain enough to believe his opinions would have any weight in that body, but he must be allowed to say, that he considered the decision of this question as involving the future character of North-Carolina.

The Committee then rose, reported progress, and obtained leave to sit again.

MONDAY, JUNE 29, 1835.

After Prayer by the Rev. Dr. McPheeters,

The Convention resolved itself into a Committee of the Whole on the 32d Article of the Constitution, Mr. FISHER in the Chair.

Mr. SPEIGHT, of Greene, rose and said, if he knew his own heart, he felt no rancour against any Religious sect. He regretted that gentlemen, who had spoken on this subject, had thought it necessary to arraign the motives of the Protestants. He might have retaliated their charges, and shewn that persecution had always been resorted to by the Catholics, and that the Protestants had always acted on the defensive. But, this would be unpleasant, and he would therefore forbear.

It would appear, he said, from the course of the debate, as if the Convention were about to deny the people the liberty of con-

science. Are we, he asked, about to form any new article on this subject? Certainly not. On the contrary, we are called together to consider an Article which has existed in our Constitution for more than half a century, to determine whether it shall be amended, and in what way.

It should be remembered, that the other day, the gentleman from Buncombe (Mr. Swain) had said, that the Protestants were not only at war with each other, but they had combined against the Roman Catholics. What evidence had the gentleman of this warlike spirit on the part of the Protestants? He called upon him to adduce the evidence on which he founded his opinions.

Mr. S. said it was unnecessary for him to go back to the time of the Reformation, to show the hostility of the Catholics to the Protestants. Yet, at this day, it is asserted that the Protestants have combined to put down the Catholic Religion.

He regretted that the 32d section had ever been admitted into the Constitution; but we find it there, and the question is on striking it out. It was said that no man could deny the being of God. But, if there were any such person, would the people of North Carolina be willing to admit him into any high office of the Government? Or would they admit any person to office who denied the coming of our Saviour, and the doctrines which he taught? Or those who hold Religious principles incompatible with the freedom and safety of the State? Do gentlemen believe they were sent here to admit of provisions of this kind? Why, he asked, do you require an oath from your officers, that they will faithfully perform their duty, if your officers have no proper sense of moral accountability?

Mr. S. went on to state what a good Protestant believed, and then stated the Articles of Belief of the Catholic Church, and shewed wherein they differed, quoting some authorities for this purpose, and to exhibit instances of persecution against the Protestants.

Mr. S. stated, that he had not the least wish to disfranchise any member of the Catholic Church; but he desired to debar all who denied the being of a God, and who hold religious principles incompatible with the freedom and safety of the State. And if gentlemen are desirous of striking from the Article the word *Protestant*, and insert *CHRISTIAN* in its place, he did not know that he should object to it.

Mr. SHOBER said, he would not have troubled the Committee with any remarks on this subject, but for the kind manner in which the gentleman from Buncombe connected him with the debate. While I am duly sensible, said Mr. S., of the personal compliment which he bestowed on me, it is not the less flattering, coming, as I have every reason to believe, through him, from the Commander in Chief of the Militia of North Carolina, so eminently qualified to notice and appreciate military accomplish-

ments. If it were certain that the Gubernatorial Chair of the State would continue to be filled by so accomplished a Statesman and able tactician as the present Chief Magistrate, with a Volunteer corps similar to the gallant battalion of which the gentleman from Buncombe made honorable mention, subject to his orders, it would perhaps be unnecessary in the Convention to debate the 32d section—as the destinies of the State, its rights, its liberties and religion, would perhaps be sufficiently guarded. But, as this is uncertain, every thing being mutable, and while the present Commander of Chief, and the chivalrous band in question, are passing from the stage of action, restrictions of the kind under consideration can do no injury. The gentleman from Buncombe, however, in the compliment so kindly bestowed on myself, and the regiment I have the honor to command, mixed with it some alloy, in alluding to the humble Society of Christians of which I am an unworthy member; and very possibly, so far as actual religion is concerned, if I understood him correctly, the gentleman and myself may be on a *par*, as he acknowledges himself to be *half* a member of a particular Church, and I am an unworthy member of another. While, then, I was flattered with the undeserved personal compliment of the gentleman, I, at the same time, tasted the acid conveyed in the sweetened pill. It would seem, that whilst the gentleman is willing to open the door to the great Catholic Church, he feels disposed to construe the restriction as applicable to the little Society to which I belong, as well as to some other unpretending denominations, under the latter clause of the section in question, which excludes those who “hold Religious principles incompatible with the freedom and safety of the State.” If such be the case, I say exclude them—exclude all who hold such doctrines. It is a mistaken notion, however, if it is thought this Society holds such principles; because it is an express point in their creed, that in whatever clime their lot is cast, they shall owe exclusive obedience and allegiance to the Civil Government under which they live and which gives them protection, and dwell in peace and harmony with other religious persuasions. The Society in this country, gives tribute no where. Voluntary contributions are frequently yielded, not to maintain a splendid Religious Establishment here or elsewhere, nor to maintain a Head of the Church or Clergyman in luxury and idleness, but to promote the Missionary cause. For such is, in fact, their primary intention, and the very object for which they formed a Society; not to cavil with other denominations about abstract principles of religion, and to sow dissention, but to preach Christ to the Heathen nations. Upon this principle, it is true, the Moravians (properly called United Brethren) are united; and while you will find their Societies in Europe, Africa and America, yet as a whole, they form a small number, indeed, compared with other denominations. While you will find their flourishing Mis-

sionary Establishments amongst the Hottentots and Caffers in Africa, they are likewise to be found amongst the Indians in America, the Greenlander and Esquimaux, the Negro slaves in the West Indies and South America, and the Cossack in Asia. To sustain these Establishments, heavy expenditures are yearly required, far exceeding ordinary contribution, to sustain the cause. It was foreseen, at the very formation of the Society, that more permanent means would have to be created—and by voluntary contribution and bequests, a fund was raised for that purpose, which is continued to be kept; while large sums of money were frequently borrowed in anticipation. When the Moravians established themselves in North Carolina, a large body of lands was purchased in this country, through the medium of funds raised in Europe for the purpose of sustaining the Missionary cause—subject and liable, in the first place, to discharge the debt contracted in its purchase, or such other debts to a large amount, contracted by the Society in Europe, where it was first established in the country. Most of the land has, from time to time, been sold at an advance price on the purchase money, and the proceeds applied in payment of those debts, except such part *used* for Missionary purposes as exigencies required. The whole amount of the debt, even at this time, is thought not to be discharged—the balance of the land remains as a fund for the purpose. It is true, the head of this Missionary Institution, is at this time established in Germany, as the most central point to the different branches, and the Missionary Establishments, not consisting of one head, but of 8 or 10 persons, from time to time chosen by the Society, who have the general management of the concern, with branches and agents in this country, and whilst occasionally, some of the proceeds of the fund are transmitted to Europe, to subserve the pious cause, much of it is applied in this country to sustain Missions among the Indians, to support superannuated Clergymen, to educate their children, and to aid young men who have not the means, in their education, preparatory for the Ministry. It is a bright feature in this Society, and worthy of notice, that their Clergymen shall not labour for the purpose of laying up worldly stores. Whilst in service, they obtain a scanty salary, sufficient for a mere support, with the assurance, that they shall not want when old age overtakes them, and that their children shall be taken care of and educated.

So much for the tribute, which it is thought by some, the Moravians in this country are compelled to pay to a foreign country. Whilst a Spiritual and Missionary connection is thus kept up, the whole machinery is, from time to time, regulated by a General Synod, which periodically convenes, consisting of Delegates chosen by the different Churches. The Spiritual concerns of each Church is conducted by one or more Divines, and the immediate General concern is guided by a Committee of Laymen, chosen by

the members of such Church. The fruits of every member's labor is his own, whilst, in many of the Establishments, certain branches of business are carried on upon what is called public funds, the profits of which are in the first place applied for Church or Town purposes, and go in a great degree to defray responsibilities, which, but for such a fund, would have to be met exclusively by taxation, whilst the surplus, if any, is subject to the control of the Committee of each particular place. As far as the religious tenets of the Society are concerned, they are, I apprehend, generally understood to be of the Episcopalian order. Deriving their Episcopacy from the Greek Church, tracing their origin beyond Luther's time, and deriving their name from Moravia, a Province in Germany, where they had their first residence, nearly annihilated by continual persecution from the Catholic Church, a colony emigrated from Moravia, and settled in Saxony, where their Church was revived in the beginning of the last century, and has prospered to this time; while, by emigration from this colony to England, America and elsewhere, the Society branched off. In point of doctrine, it is well known that the Society differs but little from the Lutheran and Methodist Episcopal Church, whilst they have their own particular Church Government.—While all Religious Societies have their peculiarities and prejudices, the Moravian Society has its share. Public opinion and the feeling of the rising generation, have abolished some; others are in a state of abrogation; in such a state of things, it is feared by many of its members, that in removing what is thought mere peculiarities, essentials may suffer. Like the Quakers, this Society was exempt from military duty, except in case of invasion or insurrection. Whatever may have been the conscientious feeling of the Society in its earlier days, it is evident that such a sentiment exists no more, and that, therefore, they enjoyed an exclusive privilege without a proper cause—a privilege which was certainly very correctly abolished, so far as the Moravian Society is concerned; and while I hope that the Society may continue to flourish long after I shall have laid down my arms, and long after I and the present excellent Commander in Chief of the Militia of North Carolina shall be no more, I am satisfied they will always be found in rank, should occasion require, fighting for their country, its liberties and its laws.

Mr. President, so far as the subject under consideration is concerned, it appears to me that the 52d section should be retained unaltered, or if altered at all, very slightly; and this, I am satisfied, is the opinion of a great majority of the county I have the honor in part to represent, whose feelings, every consideration binds me to respect. We may be termed fanatics, or may be called bigots, but such names will not change sentiment; and it does appear to me, that a country is in a better situation at least, with a grain of superstition, than with a tincture of infidelity. I am

one of the last persons who would vote for an established Church, and compel the people to support it; it has become a matter of history, that where a Church is established, be it of any denomination, its powers are soon abused, and Religion is prostituted to the most unworthy purposes. Of such abuses, we have abundant evidence, as far as the Church of England is concerned, interwoven, as it is, with the Civil Constitution of that country. While, therefore, I am entirely satisfied, that Church and State should be kept asunder, it appears to me, it has nothing to do with the question under consideration. We are not called upon to adopt edicts of proscription—the mere question about qualification for office is under consideration. In a Christian country like our own, where law and every rule of action, as it appears to me, is founded upon Religious principles, it really would seem, that those who are called upon to administer the laws, or to execute them, should believe in Divine precepts. What does the Section under consideration say? “That no person, who shall deny the being of a God, or the truth of the Protestant Religion, or the Divine authority either of the Old or New Testament, or who holds Religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the Civil department within the State.”—That a person who holds any principles incompatible with the freedom and safety of the State, should be entitled to office, is a position which has not yet been asserted in the progress of this debate, and is, as it appears to me, so plain a principle, that it is to be apprehended no one will deny it. Why, then, not test an applicant for office on this point? It seems clear, therefore, that if the latter clause only was contained in the section alluded to, it would have remained undiscussed, as an invaluable principle. But, the word Protestant, is the great stumbling block. As applicable here, it appears to me, it can have but one meaning, and embraces all those who believe in that memorable and venerated Instrument submitted by certain Princes of Germany to the Diet at Augsburg, as a Protest against the abuses of the Catholic Church. That abuses did exist at that time, accumulating for hundreds of years, of the most extraordinary kind—that it had become a mass of corruption, cannot be doubted by any one who reads the history of those times; but for one of the abuses, I need only advert to the shameful practice of selling Indulgencies and granting Absolution. That these abuses were or were not part of the Catholic faith, I will not pretend to say, but grant that they were powers merely assumed, and gradual encroachments upon correct principles. The Princes who preferred this Protest, were of the Catholic faith, and their aim was to correct abuses and purify their Church, and that it had a good effect, every enlightened Catholic in our days will not deny. A sincere Catholic, therefore, may in conscience and truth say, that he be-

lieves in the truth of the Protestant Religion—because the principles on which it is founded, tended to raise and elevate his own Church to its true character.

While we have seen that the Catholic Church, in its progress in ancient times, greatly abused Religious rites, we know that the Pope, who is the head of that Church, in former days did frequently arrogate to himself superiority in temporal concerns, claiming obedience from the Civil Authorities, and as the pretended Vicegerent of Christ, receiving submission from Kings and Potentates, while even in these dark days, there were frequent struggles between the Pope and the Civil Authorities for supremacy. The assumption of power since the Reformation, became less and less active, but it was left to Bonaparte to give it the most fatal blow; yet, that this power may not be assumed again, when a fair opportunity offers, is by no means certain.—Such is, and always has been, power. Give it play, and it will trample upon right. This will not merely apply to the Pope, but give power to any other denomination, and it would, in all probability, be abused.

Unhappily for the cause of Religion perhaps, the Protestants, since the Reformation, have become divided into so many denominations, and so diversified in their religious notions, that no danger is to be apprehended from them, so far as our Civil Institutions are concerned. Not so with the Catholic Church—that appears to move along in solid Phalanx. That there are individuals in the Catholic Church of as much fervid piety as perhaps any other, is not denied; and that they are closely allied to our institutions, from which nothing would make them swerve. Such individuals, it appears to me, cannot hesitate in saying that there is truth in the Protestant religion.

The section under consideration, then, has done no harm.—It has been a part of our Constitution for 50 years—it has stood as a beacon to aspirants for office, as an axiom that we prize Religion, and tells the world we are a Christian people. The people have a reverence for it—why then disturb it? I repeat, call it superstition, if you please, yet it appears to me it is that kind of superstition which tends to strengthen our free institutions.—As at present advised, I shall vote for no amendment, believing it has not deprived the State of any talents in its officers, and excluded none conscientiously entitled heretofore to a participation, and that it will receive no other construction hereafter; but that it operates, in fact, only on such denominations as hold religious tenets incompatible with our free institutions, and who owe superior allegiance to some foreign Power. Such, I think, should be excluded, whether it applies to the Society to which I belong, the Catholics, or any other denomination.

Mr. RAYNER said, the only apology, Mr. Chairman, I shall offer for obtruding my views on the Committee, is, the very

great importance of the subject now under consideration. Being one amongst the youngest members of this body, and surrounded as I am by the congregated wisdom of the State, I have hitherto forborne to take any part in the varied discussion which has been going on around me—and it is with extreme diffidence, that I now presume to offer a single remark on this important matter. But, sir, the duty which I owe myself, as well as that which I owe my constituents, requires that I should briefly state the reasons which govern me in the vote I am about to give.

Mr. Chairman, I conceive, that in the issue which we are now about to try, is involved a principle of the greatest magnitude that has ever agitated society, not only in the history of this country, but, sir, in the history of mankind. We are now about to try the issue, whether, in the regular ordeal of change and revolution, to which the God of Nature has subjected not only the material world, but all the inventions and institutions of man, the principle of Religious liberty has attained its acme, and is now about to take a retrograde movement; whether, with all the lights of experience we have before us, we will make still greater improvement upon the free institutions which our fathers left us, and erect a still more lofty beacon light, for the guidance of posterity, for ages to come. Sir, the issue which we have to try, is, whether (in the language of the Bill of Rights,) “all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience,” or whether, in dispensing those offices, which should ever be the just reward of merit, you require, that men should come up to the confessional, and there subscribe to a certain rule of faith. Disguise it as you may, sir, this is the real issue. Can this Committee hesitate for a moment which way to decide? Can we, I say, with the lights of nearly 6000 years shining before us, with all the precepts of history to enlighten us, and with the example of that liberal system which is pervading the world before us—Can we hesitate, (in the elegant language used the other day by the distinguished gentleman from Buncombe) to “strip the bigot of his cowl, and strike the torch from the hand of persecution?” Sir, “if history be precept, teaching by example,” what are the examples she furnishes, to prove that the progress of Religious liberty has not been commensurate with that of Civil liberty, and that Religious intolerance has ever been the handmaid of Despotism! A slight retrospect of the history of the world, will verify the truth of this. In the earliest ages of the world, the same causes which induced man to enter into civil society—the protection of the weak against the strong—induced him to surrender to the monarch, the depository of power, all those inestimable rights and principles, which it has caused the world so much blood and treasure to regain. So that, coeval with the first organization of those splendid Gov-

ernments which were reared on the banks of the Euphrates and Nile, was the exercise of despotic power over the persons of men—while a crafty Priesthood claimed the control of those relations which existed between man and his God. While in their persons, they served but as instruments for the gratification of tyranny and ambition, in the temples of Isis and Osiris, were forged the fetters which enshackled their minds. If we come still further down the history of the world, and look at Greece—that “bright clime of battle and of song”—we see a new era in the history of man. Here he has burst asunder the fetters of tyranny, and walks ever in the consciousness of freedom, though his mind is still enveloped in the clouds of bigotry and superstition. A fanciful mythology had peopled every grove and grotto with some presiding Deity, whose influence over the destinies of man, it was death to gainsay. A Harmodius could be found, who “rose refulgent from the stroke” of the tyrant’s fate—but none could be found so far willing to brave the storm of superstition, or the anger of the offended Gods, as to strike from Socrates his cumbrous chains, or to snatch the poisoned chalice from his lips. Sir, that great man died like a philosopher indeed, an illustrious martyr for the freedom of conscience.

If we look to that astonishing people, who, from a small colony on the banks of the Tyber, extended their empire from the pillars of Hercules to the Euphrates in the East, we see that while in consequence of their free institutions, they attained that unrivalled eminence in arts, science and arms, which have stamped their name with never-ending glory, an unwavering devotion was still required to that numberless host of Deities who were supposed to preside over the destinies of the ‘eternal city.’ Whilst her banners were floating in every breeze, and her eagles soaring in every sky, her victorious Generals were yet enjoined to convey to the temple of Jupiter the *opima spolia* of every land.

With the destruction of that fair fabric of Roman power, by those Northern barbarians who overrun that ill-fated country, civil as well as religious liberty, seemed to have deserted the earth. When those ruthless invaders had established themselves in the conquered provinces, tyranny again resumed her empire, and called to her assistance the monster, superstition. All the learning extant was engrossed by a wily Priesthood; the simple and peaceful maxims of the Gospel were perverted to the purposes of a most unrelenting persecution, and for ages, the only response to the groans of the oppressed, was the hollow echo of his own voice, as it reverberated along the walls of his lonely dungeon. For near nine hundred years did the world thus writhe under the galling chain of despotism and her twin sister religious intolerance. At length,

“The fiat came, the boon by angels won,
And heaven-born genius fired Genoa’s son.”

A bare recital of the difficulties, misfortunes and persecutions of Columbus is enough to wring the heart of every true American. He had to encounter not only the ignorance, but the bigotry and superstition of that country which profited the most by his genius. His scheme of discovery, which presupposed the roundness of the earth, was denounced as visionary and heretical, by those agents of oppression which then did, as they do still, wield the destinies of Spain. At length, he surmounted every obstacle, and immortal glory crowned his efforts.

For nearly one hundred and twenty years after the discovery of America, no permanent settlement had yet been established by that country, from whence our ancestors came. At length, a band of Pilgrims, who had long been labouring under the rod of oppression—who were denied the privilege of “worshiping God according to the dictates of their own consciences,”—looking over the wide continent of Europe, and discovering no country, where tyranny and superstition were not leagued together for the oppression of man, cast their eyes across the Atlantic, to the forests of the Western world. Sir, religious persecution (as the gentleman from Buncombe informed us the other day) gave the first impetus to the settlement of these free and happy States. Mr. Chairman, of all the events which have transpired from the beginning of the world down to the present time, there is not one which contains more moral grandeur, more sublimity, than that presented by the departure of the Pilgrims for these savage shores. Sir, behold them about to tear themselves from the land that gave them birth, about to sever all the tender ties of kindred and home, about to rend asunder all those sympathies and associations which bind man to his fellow-man, and to trust themselves on the bosom of an unknown ocean—to brave the fury of the elements, for the purpose of seeking a home—not presenting the same stimulus for perseverance, as did the promised land to the Hebrew Pilgrims of old—not “flowing with milk and honey” as that did—but tenanted by savages and beasts of prey. Sir, what must have been their joy, when, after a long and tedious voyage, they were enabled, on the Rock of Plymouth, to offer up to the Supreme dispenser of all good their grateful adorations, in that way which accorded “with the dictates of their own consciences?”—But sir, the history which that gentleman went on to give of that infant colony, affords an apt illustration of the weakness of poor human nature; and of the tardy progress which man has made in wresting his rights from the grasp of tyranny and superstition, and in cultivating and perfecting the principles of liberty. No sooner had that infant colony, under the happy auspices of religious freedom, established themselves on a firm footing, with the wounds of their own persecution hardly healed, than oppression again raised her Gorgon head, and intolerance resumed her sway.

But the frowning wilderness afforded an asylum for the oppressed, and although countless dangers beset the path of exile, yet they thought it better to die by the tomahawk of the savage, or serve as food for beasts of prey, than to endure the scourge of persecution from their own kindred and fellow-man. Sir, it seems that man had not yet attained to that degree of intellectual or moral improvement, which enabled him to appreciate the blessings of religious freedom. All the groans, the tears, the blood, which persecution had drawn for a thousand years, had not taught our forefathers, that to insure happiness, the mind must be left unfettered and free.

But sir, the principles of the Revolution, the seeds of which were thus early sown, gained apace, and the same sword which severed the bonds of our Union with the mother country, cut the Gordian knot which had so long baffled the wisdom of the world—which had so long united the Church to the State. In the struggle for that freedom which we now enjoy, were found fighting, shoulder to shoulder, men of every persuasion and of every creed. The Presbyterian of New-England, the Quaker of Pennsylvania, the Catholic of Maryland, the Baptist, the Episcopalian and the Methodist were all found engaged in a common cause, leagued together by the same sense of one common danger, and shedding their blood by one common love of liberty. Sir, the peculiar nature of that eventful struggle convinced the heroes and sages of that period, that to ensure to their posterity the full benefit of their labors, they must guarantee unto them freedom of conscience as well as of person. So we see in that Constitution, which was adopted by the States of this Republic, and which so happily allayed all the angry elements of strife and faction which threatened to engulf in ruin that liberty, which had just been purchased at so dear a price—in that Constitution, is contained the principle, the glorious principle of religious toleration and freedom of opinion. In the 3d section of the 6th Article of the Constitution of the United States, are these words: "No religious test shall ever be required as a qualification to any office or public trust under the United States." And by the amendment to the Constitution, without which North-Carolina refused to enter into the compact, it is still further provided, that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." Sir, this covers the whole ground—this is the great *arcandum* in the science of government which had so long been concealed from the world; and I insist that the recognition of this principle in our political charter, the adoption in our fundamental law of this right of religious liberty, constitutes a new epoch in the history of social government. That spell which so long had held the world in bondage, was now dissolved, bigotry was at length 'stripped of her cowl,' and superstition fled to the regions of night.

In nearly all the State Constitutions which were adopted about the same period, we find the same right of conscience, the same freedom of opinion, guaranteed to man. But, sir, in our own excellent Constitution—yes, sir, excellent I say—for, “with all its faults, I love it still”—in that venerable instrument, which reflects so much glory upon that band of patriots who framed it, we find a provision which experience has taught us, conflicts with the spirit of that liberty which it was their purpose to secure to us—a provision which conflicts with the liberal spirit of the age. I am induced to believe, with the distinguished gentleman from Buncombe, that it is a libel upon our fathers, to say, that they intended to circumscribe the freedom of conscience—for the Bill of Rights emphatically declares, that “all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience.” Sir, I know not how the provision contained in the 32d section, got there—whether it was through a pique of retaliation between the Clergyman and the Deist, (as has been suggested,) or whether it was intended to be reserved as sleeping thunder, (to use the figure of the gentleman from Orange,) to be hurled at the heretics and schismatics of after times. I say, it is immaterial what may have been the cause of its first insertion there—it is sufficient for us to know that it is there: and one of the subjects which the people, in their sovereign majesty, have confided to the discretion of this Convention, is the propriety of amending that Article.—Sir, for one, I was opposed to touching that Constitution which our fathers framed at the hazard of their lives. I wished to cherish it, as a monument of Revolutionary patriotism, as a relic of Revolutionary wisdom. I conceived that it was the work of men, whose minds were free from the narrow prejudices and sectional jealousies of modern times, and that, as such, it should be kept sacred and inviolable from the rude and reckless hand of innovation. Sir, that Constitution was as well calculated to secure the blessings of civil liberty, as any the ingenuity of the age could devise. With the gentleman from Carteret, I am ready to declare, that with me, the 32d section was the only objectionable feature in it; and even with that, obnoxious as it is, I should have preferred it to any we were likely to obtain, believing it better

—————“to bear we ills we have
Than fly to others that we know not of.”

But the die has been cast, the crisis must be met; and in carrying out the principles of Reform, will you mutilate the most sacred provisions of that venerated instrument, and retain the only one which is at least a century behind the improvement of the age?

I have heard the idea frequently advanced, both here and out of doors, that we should beware what we do, lest we offer too great a shock to our existing institutions, and too great a cause of excitement to the public mind. Sir, I am surprised,

I am indignant, to hear such arguments as this come from the source whence it does. Where was the pretended sorrow for the fate of our ancient institutions, amid the havoc of Reform which has lately been going on? Have we not seen some of the most important provisions of that Constitution, hallowed by so many sacred associations, swept away, one after another, by the besom of innovation? Have we not, I say, seen our venerable Constitution despoiled of its fairest proportions, and, like the inimitable Statue of Washington, (to use the beautiful idea of the gentleman from Carteret,) torn to pieces, limb by limb? Sir, have you not seen an unfortunate, though degraded race of beings, who are taxed for the support of the Government, deprived of all participation in the selection of those who administer that Government, thereby compromising that cardinal principle in free governments, that representation and taxation should never be separated? Have you not seen the periodical sessions of the Legislature altered from one to two years, thereby unnecessarily retarding the due administration of justice—lulling the people into apathetic indifference to the true principles of their Government, and to the giant strides of Federal power—forgetting that political axiom, that “eternal vigilance is the price of liberty?” Have you not seen the relative proportion which has heretofore existed between the two Houses of your Legislature, destroyed? And, sir, for what? Was it with a view to the promotion of the happiness and prosperity of North-Carolina? or was it with an eye single to the advancement of local interests and of sectional convenience? Yes, sir, we have seen all this, and not one murmur of disapprobation have we heard; but no sooner do we attempt to wipe away this only stain upon our political Charter—no sooner do we attempt to rid conscience of its shackles—to carry out the great principle of religious liberty, recognized in the Bill of Rights, that “all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience”—no sooner do we attempt this, than the alarm is sounded, and we hear the whining, the crocodile cry, that our Institutions are in danger—that the shock will be too great for the public mind.

The gentleman from Orange has told us that this matter is already prejudged—that we should wait till the storm of excitement has subsided, and reason has resumed her sway. Sir, the ball of revolution, as of inert matter, always requires an impetus to put it in motion—the movement must commence somewhere; and what power more proper to put that ball in motion, than that which is here assembled? Sir, I believe there is an excitement on this subject, an honest, though an ill-founded excitement; but if this excitement is groundless—if it proceeds from the fears and prejudices of a liberal and patriotic, though a misguided people, let me ask this Convention, assembled here for the purpose of

asserting and digesting the great and eternal principles of freedom—whether it is the part of Statesmen legislating for posterity—whether it is in accordance with that duty which we owe to our consciences and our country, to fan the flame of excitement which is already burning, and to pander to those fears and prejudices which are as “baseless as the fabric of a vision.”

I do not fear the discussion of this subject before the honest yeomanry of the land. I have too much confidence in the capacity of man for self-government, not to believe that the people will sustain the great principles of Religious freedom, and the “natural and unalienable rights” of man.

The gentleman from Orange, gave as a reason for retaining this Article, that some Revolution might hereafter arise, as in France, and that this sleeping thunder would then be ready to be hurled at any Danton or Robespierre who might aspire to direct the storm. Sir, when we are ready to receive a Robespierre for a master, all the moth-eaten parchments in our archives, will not be able to shield us from slavery. The only guarantee of liberty, is in the capacity of man to enjoy it. Philip could not have conquered Greece in the age of Themistocles, nor could Cæsar have enslaved his country in the days of Cincinnatus. The gentleman went on to say, that he did not feel willing to follow all the new fashions of these times; that he was not willing to adopt the political fashion of the age. Sir, what is the fashion of the age?—Is not this an age of improvement? Is not the spirit of Reform abroad in the world? Have not the improvements in Arts, Science and Government, for the last few years, by far exceeded those of several centuries preceding? Is not the spirit of Liberty pervading the civilized world? Has not the gentleman, in his own times, seen the Standard of Freedom unfurled in nearly every country of Europe? Look to France, to Belgium, to Poland, to Spain, to Portugal, to the South-American States; in all those countries, man has asserted his rights, and sealed his devotion to liberty with his blood. Religious liberty has also been on the wing, and shed her benign influence on the mind of man. From the dungeons of the Inquisition, is no longer heard the groans of the heretic, and the appeals of Justice have extorted from England the boon of Catholic emancipation. The spirit of liberty and reform is making its way in every corner of the globe, and sooner or later, will consign to one common ruin, all those despotic institutions, which are the time-worn relics of a feudal age. Is the progress of this system to be deprecated by any one who loves liberty and wishes to see its blessings extended to the remotest verge of creation? But the gentleman tells you he don't like the fashion of the times. Sir, he may, if he chooses, stem this rapid current; for myself, I prefer to be borne along with its resistless tide.

But it is again urged, that the amendment of this article will endanger the ratification of the Constitution by the people. Sir,

if there is no other way to ensure its ratification, but by sacrificing the great principle of religious liberty, then, in the name of all that is sacred, let it be consigned to an eternal oblivion. It were better that society should be dissolved into its original elements—better that the tide of colonial vassalage should again sweep over this extensive country, from the seaboard to the mountains, and we should be left again to grapple for our freedom with the tyrant's chain, or the bigot's scourge—to wade to our liberty through oceans of tears and seas of blood, than in this enlightened age, when the march of mind is onward, we should prove so recreant to the spirit of liberty as to light anew the torch of persecution, and extinguish forever the fond hopes of philanthropy and freedom.

Let it be rejected—we shall still have the valuable Constitution our fathers gave us, with that edious feature despoiled of half its horrors, as it now is, by a liberal legislation. But, say gentlemen, if allowed to remain, it will be a dead letter then, as it is now. Sir, if, after all the discussion upon this matter, it is still retained, it will be a dead letter no longer. The crisis contemplated by the gentleman from Orange, will then have arrived; his thunder will sleep no longer, but will hurl its bolts in every direction. If a compliance with public opinion causes it to be retained, that public opinion will then have declared, that there is good cause why it *should* remain—public opinion will then have inscribed its construction of this Article in such glowing characters, that “he that runs may read.” If it is retained, can any one be so blind as not to see, what portion of the community will thus be placed under the ban of proscription? Sir, I am opposed to making this a Catholic question—I have tried to view it apart from any direct result it might produce—I have tried to view it upon the broad and general principle of religious toleration. I am not to be considered as an advocate of the Catholic creed—I know but little about it, and for that little, I am by no means an apologist; but, sir, I am willing to let them alone, lest, in the language of Scripture, I “be found fighting against God.” I do not conceive that we have any thing to do with the tenets of any particular creed. We have not to decide between the merits of contending sects. We have not to enquire whether the Pope of Rome is the legal custodier of the keys of Christ's kingdom, or whether, (according to the opinion of some,) he is the many headed Monster mentioned in the Apocalypse. We have not to enquire, whether the Eucharist is, *ipso facto*, the body and blood of Christ, or whether it is merely emblematical of the efficacy of his death.—I say, it is not our province to decide such matters as these—we should leave them to the consideration of casuists and schoolmen.

But it is said, if the Catholic is excluded from office, that will not deprive him of the right of worshipping God according to the dictates of his own conscience. Sir, the right of worship-

ping God, free from all personal pains and penalties, is a right which can *now* be enjoyed in any country in Christendom. An exclusion from the honors, the profits and the emoluments of the State, is the highest persecution which public opinion will tolerate in any Christian country in this enlightened age. So that, if you sanction the principle recognized in the 32d Article, you use the rod of persecution with as unsparing a hand as it is used in Spain, or the States of the Church. And if you exclude one sect, why not another and another, and finally all, except one? It was a favorite saying of Napoleon, that there was but one step from the sublime to the ridiculous; and on the same principle, there is but one step from religious freedom to the most bitter and intolerant persecution.

Retain that Article, and I assert it, the Catholic and the Jew will be placed under the ban of proscription, no matter how great may be his merit; although he may love his country with a patriotism as pure as the first love of woman; although he may pour out his blood like water in her defence; yet, for daring to "worship God according to the dictates of his own conscience," you cut him off from all hope of political preferment, and from all stimulus to a laudable ambition. Like the Israelites in Egypt, he will be oppressed by the land in which he lives, the soil on which he treads, and like them, he will have left no other resource, but to turn his back upon the graves of his fathers, and take up his march to a more tolerant clime. Sir, the exclusion from office for opinion's sake, in this enlightened age, proceeds from the same spirit of bigotry and superstition which has preyed upon mankind, from the building of Babel to the present time; it is the same spirit which presented the cup to Socrates, which confined Galileo in his dungeon, which bound Cranmer to the stake of martyrdom, which drove the Huguenots from France—nay more, sir, it is the same spirit which led the Saviour of the world to Calvary's awful summit. Sir, what must be the situation of the emigrant who comes to this country for the sake of religious freedom, if the appearance of the good old North State should induce him to make it his home? Will he not wish himself across the wide waters again, that "after life's fitful fever is o'er," he may lay his bones with those of his fathers? What must be the feelings of the pious mother, when looking on her tender infant, whom she believes her duty to her God enjoins her to train up in the same way which has secured peace to her own bosom—what must be her agonized feelings when she reflects that by so doing, she is consigning him to obscurity forever? Sir, I would ask this Convention, whether this proscription is in accordance with the holy precepts and requirements of the Gospel? Does it accord with that meekness and forbearance, which characterized the Saviour in his sojourn among men? Does it accord with that benevolence for the human family, that

charity for others, without which the Apostle says, a practical exercise of all Christian duties, coupled with a faith strong enough to remove mountains, is as "sounding brass, and a tinkling cymbal?"

Sir, is this Convention ready to incorporate into our fundamental law, the doctrine, that "honesty, capability, and faithfulness to the Constitution," is not a sufficient qualification for office, but that he who obtains it, must abjure a certain particular faith? Sir, who constituted us judges of the hearts and consciences of men? What right have we to impugn the motives of our fellow-men? It is asserting one of the attributes of the Deity himself, for it is the Lord alone that pondereth the heart. Sir, you may carry on this system of persecution, but there is one point beyond which you cannot go. You may subject the body to privation and torture, but you cannot tether the mind—fettters cannot bind it—tyrants cannot enchain it—dungeons cannot confine it—it will rise superior to the powers of fate, and aspire to him who gave it.

Mr. Chairman, I for one, am ready to meet this crisis: I know not how it may affect my political prospects hereafter, but this much I do know, that the path of duty shall be to me the path of pleasure. I rely for support upon the virtue and liberality of the people. I will return to my constituents, and to their magnanimity will I appeal. I will appeal to their intelligence, to their generosity, and to their devotion to liberty and their country. I feel confident that they will sustain me. But if I should be deceived; if I should be unable to grapple with fanaticism, and my political martyrdom should be the consequence, I shall still have the proud consciousness of a faithful discharge of duty. The vote which I am about to give, will ever be an event to which I shall recur with delight, let the consequences be what they may. At all events, come weal or come woe, I intend to "do my duty to my country, and leave the consequences to God."

The Committee then rose, reported progress, and obtained leave to sit again.

TUESDAY, JUNE 30, 1835.

After Prayer by the Rev. Mr. Jamieson,

The Convention resolved itself into a Committee of the Whole, Mr. *Fisher* in the Chair, on the unfinished business of yesterday.

Mr. *GASTON* of Craven, spoke as follows:

Mr. *Chairman*—The peculiar situation in which I am known

to stand with respect to the question now under consideration, and the character of the debate which has already taken place upon it, may be thought to render it indelicate in me to interfere at all in the discussion. But no considerations of delicacy ought to deter me from the full and faithful performance of my duties as a Delegate of the People in this Convention. Besides, silence is likely to subject me to much greater misconstruction than the most frank and fearless exposition of my opinions. At all events, the latter is the course to which I am prompted by inclination as well as by a sense of propriety, and therefore is it, that I must ask the patient and kind attention of this Committee. And, sir, in reference to the peculiar situation to which I have already alluded, permit me to embrace this opportunity, the most public and imposing which can be presented, and the first fit one that has yet been offered, to make an explanation to the People of North Carolina, of the circumstances under which I accepted and continue to occupy the high Judicial office, which they have been pleased to confer upon me, and which, some persons may doubt whether I am constitutionally qualified to hold. I am not, indeed, aware that any one decent citizen of the State has called in question the purity of my motives or questioned the propriety of my conduct, or has expressed dissatisfaction at my course. But this is an age of detraction. Calumnies are the ordinary weapons of warfare with religious as well as political factions; and if I have not yet been assailed by slander on this subject, it is not unlikely that I soon shall be. This explanation is therefore due, not only to my own character, but to the character of the State, whose honor is always involved in the fair fame of her sons. When the vacancy occurred on the Bench of the Supreme Court, which was occasioned by the death of my excellent friend, Chief Justice Henderson, I was urged to accept of the office by reasons which I found it impossible to resist. It is needless to say more of these reasons, than that, in my judgment, they made out a *plain case of duty* not to decline the appointment, unless the Constitution excluded me from it because of my religious opinions. That Constitution, I had repeatedly sworn to support; and, therefore, whether it did or did not thus disqualify me, was a serious question, and well worthy of the fullest consideration. It is not easy for a man to speak of himself or of his principles without disgusting egotism. It will be enough for me to say, that trained, from infancy, to worship God according to the usages, and carefully instructed in the creed of the most ancient and numerous society of Christians in the world, after arrival at mature age, I deliberately embraced, from conviction, the faith which had been early instilled into my mind by maternal piety. Without, as I trust, offensive ostentation, I have felt myself bound outwardly to profess, what I inwardly believe, and am therefore an avowed, though unworthy member of the Roman Catholic Church. Upon

examining the Constitution of the State with respect to its requirement of a religious test, it is apparent that the subject is not free from difficulty. The Bill of Rights, (*section 19.*) which is made *the basis* of that Constitution, declares, “that all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience,” and the 34th section of the Constitution further provides, “that there shall be no establishment of any religious church or denomination in this State, in preference to any other.” But, while these provisions seem to contemplate a perfect equality of religious tests, the 32d section of the Constitution declares, “that no man who shall deny the being of God, or the truth of the Protestant religion, or the divine authority of either the old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit, in the civil department within this State.” As all these declarations emanated from the same authority, and at the same moment, it was proper, if possible, to give to them a construction which would render them consistent with each other. The enquiry was, whether so expounded, the Constitution did prohibit Catholics from holding a civil office. This enquiry I had recently had an occasion to prosecute, at the request of a Catholic friend who received a public employment, with much care and with an earnest desire to come to a correct conclusion. The result to which I then arrived, was now re-examined, and on re-examination, fully approved.

Not long after the great schism which arose in the Christian Church in the 16th century, the term Protestant was used to designate all those denominations of Christians, which, however divided among themselves, then separated from the main body; while *these* claimed to be called Catholics, or members of the Universal Church, and because of their remaining in union with the Bishop of Rome as their Chief Pastor and visible head, were also called Roman Catholics. The clause disqualifying those who should “deny the truth of the Protestant Religion,” might have been intended to incapacitate Roman Catholics, and the supposition was rendered the more likely by the consideration that North Carolina had been settled almost exclusively by Protestants, at a time when bitter religious disputes and prejudices prevailed, and that these prejudices had not lost their force when the Constitution was framed. But the clause in question was part of the written fundamental law of the land, and ought to be expounded according to the well established rules of legal interpretation.—According to these, unless it contained a clear disqualification, it must be considered as leaving unimpaired the right of the citizen to hold, and of the country to confer office. The People of the State have a right to the service of every citizen whom they think worthy and capable of serving them, and there can be no restric-

tion on *their* choice, except such as they have *unequivocally* imposed on themselves. Every citizen having an *unalienable* right, that is, a right which he cannot part with, nor Society take from him, to worship Almighty God according to the dictates of his own conscience, any penalty or degradation imposed on him, because of the exercise of this right, unless plainly denounced by the Constitution, must be regarded as a grievous wrong.

Every part of this short clause, 'who shall deny the truth of the Protestant religion,' is to be well considered. It is obvious that the term 'deny,' does not include those who merely doubt, nor even those who disbelieve, unless that disbelief be accompanied by some overt act of *negation* of its truth. To *deny*, is the reverse of *affirm*, not of *believe*. Many considerations of propriety and of decency may induce an individual to forbear from denying that of which he has not seen sufficient evidence, or to which he cannot yield his assent, or that which, on the whole, he *disbelieves*. What kind of overt act does the Constitution contemplate as the denial which is to bring down this incapacity? Is the profession of a faith and the worship of God, as held and practised by other than Protestant Churches, such a denial? If the clause justified a liberal and enlarged interpretation, this might well be deemed sufficient. But we have seen, that the prohibition is to be construed strictly. The Bill of Rights has asserted, in the strongest terms, the right of every man to worship God according to the dictates of his own conscience, and the 34th section expressly prohibits a preference to any one religious church or denomination. It is hardly possible to reconcile the first with a constitutional penalty for *the simple* exercise of that right, or the other with a monopoly of civil offices to the professors of the tenets of particular sects. Besides, society generally, legislates not upon opinions, but on acts. Where this clause means to make opinions a clause of disqualification, it expressly says so; "or who shall *hold* religious principles incompatible with the freedom or safety of the State." In the penal laws of England, against heresy, the "denial" (See 9 & 10 *Wm.* 3, *ch.* 32) is to be evinced by writing, printing, teaching or advised speaking. Upon the whole, it may fairly be inferred that the word *deny*, as here used, cannot be satisfied by any thing short of this offensive denial. The Constitution does not prescribe the faith which entitles to or excludes from civil office, but demands from all those who hold civil office, that decent respect for the prevalent religion of the country which forbids them to impugn it, to declare it false, to arraign it as an imposition upon the credulity of the people.

In the next place, who shall judicially say what is "the Protestant religion?" If the Constitution defined the Protestant religion, or if the Protestant religion were made the religion of the country, and there were organized some ecclesiastical court, or other proper tribunal, to determine its tenets and to decide on

heresy, there would then be the means of legally determining what is that religion, But the Constitution does not define it, nor has it been made the Religion of the State. Such a tribunal has not been established, nor, under the 34th article of the Constitution, can it be erected. Innumerable sects, differing each from the other in the interpretation of what all deem the revealed will of God—some holding for divine truth what others reject as pernicious error—are indiscriminately called and known as Protestants. But, again, what is to be understood by denying its *truth*? Protestants have separated from the Catholics, because, as they alledge, the latter have added to the Christian code, doctrines not revealed. Protestants, therefore, reject as error, or at all events as of human invention, more or less of what Catholics receive as divine truth. But there is no affirmative doctrine embraced by Protestants generally, which is not religiously professed also by Catholics. The latter hold that the former err, not in what they believe, but in what they disbelieve. The acknowledged symbol of faith in the Protestant Episcopal Church in this country, is the Apostles' creed. This very creed is the ordinary profession of faith in the Catholic Church, and as such, is always repeated at Baptism. Do Roman Catholics, then, come within the description of persons denying *the truth* of the Protestant religion? But besides all this; before the Revolution, Roman Catholics labored in the mother country and in the colonies under grievous political and civil disabilities; and were, moreover, kept out of office by precise oaths, required to be administered to public officers, which they could not take. These disabilities were attached to them by plain and positive words. They were called by the legal nick-name of Papists and Popish Recusants. At the Revolution, the principle of Religious Freedom was proclaimed as the basis of the new Constitution. If the odious proscriptions against this class of Christians were deliberately intended to be retained or renewed, it was natural to expect that the test oaths would also be retained, or that this intention would be expressed in unambiguous language. Before they shall be regarded as the victims of religious intolerance, and degraded from political rank, a distinct expression of constitutional law ought to be required.

Considerations like these, sir, brought me to the conclusion, that whatever reason there was to suspect that this clause might have been intended by some of the Congress who framed the Constitution, to impose political disabilities on Catholics, the clause could not be judicially interpreted as excluding Catholics, as such, from office. The language used indicated such a conflict between prejudice and principle, as rendered it impracticable to adjudge a clear victory to either. A penal provision against a portion of the freemen of the State; a disabling provision against the whole community, in its selection of civil officers: penal and disabling provisions because of religious opinions, which it was

an unalienable right to possess and to follow out in practice, could not, I thought, be upheld and enforced, unless clearly and definitively declared. The question was purely one of legal exposition. It involved the construction of a written provision in the constitutional law of the country. If a construction had been settled by judicial tribunals, *that* must be deemed the correct one. If none had been so settled, then the construction which judicial tribunals must attach to it according to the fixed principles of legal interpretation, must be taken by all to be the true construction. Private conscience was concerned so far as not to violate the law. But what the law was, conscience could not determine, nor even private reason decide, against either an official interpretation actually made, or such as must result from the rules universally observed by judicial tribunals. I may without impropriety add, that on a question where I was, above all, solicitous to have a clean conscience, I was not governed by my own views only, but sought the ablest assistance that I could obtain, and that I was confirmed in these conclusions by the *highest legal authorities*, both *within* and *without* the State.

Had the office been sought as a mere matter of personal ambition, I might have deemed it safer to forego the gratification, rather than to risque a *possibility* of infringing either the letter or spirit of the Constitution. But, under such circumstances, to decline an office which my conscience told me I was bound to take, unless disabled by the Constitution, appeared to me an abandonment of duty. I had no well-founded scruples myself. To be deterred by the apprehension of what others might think of my conduct, seemed to me, rank cowardice. Besides, if from any mistaken motives of delicacy, I could have consented to impose an interdict on myself, ought I by such conduct to have practically aided in interpolating into the Constitution a prohibition, which I did not believe it to contain?—a provision insulting to the feelings and injurious to the rights of a portion of my fellow-citizens—hostile to the principles of Religious freedom, and abhorrent from all those sentiments of liberal toleration, which, at this day, belong to enlightened Christians of every denomination. My course appeared to me a plain one, and therefore I did not hesitate to pursue it. I shall be gratified if my country approve of what I have done—but whether it does or not, I have the consolation, that on mature reconsideration, my conscience does not reprove me for taking the office which that country, with a full knowledge of all the circumstances, thought proper to offer to me.

One more remark on what may be regarded as the *personal* part of this discussion, and I shall then cheerfully abandon it altogether. As a citizen of North-Carolina, having a deep concern in her institutions and in her honor, I yield to no one in the interest which I feel, that this question should be properly deci-

ded. But, as an *individual*, I beg it be understood, that I am utterly indifferent as to the determination of the Convention and of the People, except to desire that the Constitutional provision may be rendered perfectly explicit. If it be thought essential to the good of the State that a monopoly of offices shall be secured to certain favored religious sects, let it be so declared. He who now addresses you, will not feel a moment's pain, should such a decision render it his duty to return to private life. Office sought him—he sought not office. An experience of its cares, its labors and its responsibilities, has not tended to increase his attachment to it. Let him but know what is the Constitution of his country, and be it in his judgment wise or unwise, equal or unequal, he will to the best of his understanding and ability, in his own case and in all cases, uphold and defend it. So he has often sworn, and as he acknowledges no power which can absolve, so he holds that no inducement of ambition or interest can excuse him, from the exact and faithful fulfilment of this oath. His only perplexity will be to know what course he ought to pursue, if the Convention should forbear to act on the subject. Had he made up his own mind on this point—he would not, *at this moment*, reveal the determination to his nearest and dearest friend on earth. But, in truth, he had endeavored, as far as possible, to hide even from himself, the result to which his reflections would seem to conduct him in that event.

Mr. Chairman, in the Act which authorises this Convention to be called, and which has been ratified by the people, the Convention is instructed to enquire into the expediency of amending, and is empowered, *at its discretion*, to amend the 32d section of the Constitution. The first consideration which presents itself is, does the Article require amendment? On this point, I had supposed, until very lately, that a difference of opinion *could not exist*. Far be it from me wantonly to wound the feelings of any gentleman, or arrogantly to set up my notions of right as the standard by which others ought to be governed; but where my convictions are thorough and without doubt, I must be permitted so to state them. Where the path of duty seems to me as plain as day, I must be allowed to call on my associates, not to desert it. Sir, so indispensable, in my judgment, is the obligation of framing *some amendment* to this section, that I should hold the Convention guilty of an unpardonable dereliction of duty, were it to adjourn and leave the section untouched. In the course of this discussion, which has now lasted three days, the ablest members of this body have stated their views as to the meaning and operation of the article—and yet, scarcely two of them have concurred in the same exposition. One informs us that it excludes *nobody*—that it cannot be interpreted to exclude *any body*—that, for want of a tribunal to enforce and expound it, the entire provision is a *dead letter*, as if it had never been embodied in the in-

strument. Another thinks, that it clearly excludes Atheists and such Deists as make a parade of their infidelity, by proclaiming the Holy Scriptures to be false. A third believes that it disqualifies Atheists, Deists and *Jews*—for that the latter necessarily deny the divine authority of the New Testament, and Deists deny the divine authority both of the New and Old Testament. A fourth supposes that these are excluded, and that it was intended also to exclude Catholics, but that the language is not sufficiently explicit to warrant a judicial exposition to that effect. A fifth holds that it was not only intended to exclude, but, by legal construction, does exclude them. A sixth is satisfied that Quakers, Memnonists and Dunkards are disqualified, because their doctrine, that arms cannot lawfully be used in the defence of the country, is subversive of its very freedom and repugnant to its safety. Some think it will be a matter of fact for a jury to determine—others, a matter of law, for a court, to pronounce what religious principles are incompatible with the freedom and safety of the State—while not a few are inclined to hold that the Legislature may, in this respect, define what the Constitution has left vague and uncertain. It is also perfectly known to us, that the first men of the legal profession, out of this Hall—the first for knowledge and purity of character—differ also in their exposition of the Article. This Convention is assembled to revise and amend the Constitution, and the people call our attention to this section, and submit to us the propriety of so amending it, that hereafter its meaning may be understood. What excuse, what apology, what pretence can be assigned, for giving the go-by to this manifest duty? Law is a rule of action prescribed by the sovereign power, and commanding the respectful obedience of all within its sphere. The very nature of such a rule implies that it should be communicated, and of course rendered intelligible to those who are to be bound by it. That master must be the worst of tyrants, who purposely declares his commands so as not to be understood by those subject to his will. Perhaps nothing has more effectually consigned the name of Caligula to undying infamy, than the fact recorded of him by Dio Cassius, that he wrote his edicts in a very small character and hung them up on high pillars, purposely to ensnare the people. But, still, by the use of extraordinary means, these could be read, and when read, it is presumed they might be understood. But no diligence, no exertions, can enable the people to understand what is not designed to be understood, and is therefore couched in words without defined meaning. A command so given, is in an unknown tongue, and the Lexicon, by which it is to be translated, is withheld. If, however, perspicuity be required in all laws, so that no law-maker can intentionally fail in it without guilt, how emphatically is it not demanded in a *Constitution*—the fundamental law—the charter of all delegated powers—the palladium of all reserved rights?—

Here, if possible, every thing should be made clear to the man of the plainest capacity, that he may know how much of his natural freedom he has parted with, what are his duties, what are his privileges, and how he may distinguish between commands which it is treason to resist, and oppression which he would be a miscreant to endure. Every individual within the State is bound, at the cost of the last cent of his treasure and the last drop of his blood, to uphold and sustain that Constitution—and will you purposely leave it unintelligible? Every officer, from the highest to the lowest, is required to take an oath that he will support, maintain and defend that Constitution; and will you intentionally and advisedly leave a clause in it, having no distinct meaning—where you refuse to declare your meaning, and where you know that your meaning is not understood, in order to alarm timid, or to ensnare unenlightened consciences?

Here we have been met by an obstacle to all enquiry, and of course to all action, interposed by the gentleman from Orange, (Mr. Smith.) He informs us, that from some occurrences which preceded the election in his county, which he does not particularly explain, and because the choice of the people of that county fell upon himself and his colleague, he considers the people of Orange as having *instructed* their delegates not to take up this subject. Sir, I must be permitted to deny that any such instructions have been given, and to call for the document which authoritatively certifies them. I will not confound clamour, however got up—temporary excitement—popular feeling, more or less extensive—with deliberate *instructions*. I take issue with the gentleman on the fact of instructions, and demand the proof—I do so the more readily, because the people of Orange are *estopped* from giving such instructions—*cannot* give them, without a disregard of the most solemn assurances, and without bringing down on themselves a dishonor which they never, never will incur.

With many a politician, the whole doctrine of instructions is but a pretext for shunning responsibility, and shifting with every turn of popular caprice. Supposed instructions furnish a justification, or at least an excuse, for every act. If he has erred, it was because he *thought* he was instructed. He now finds that he is instructed otherwise—and he will certainly reverse what he has done amiss. “Change as ye list, ye winds,” he sails before the breeze. But, there are men of unquestioned integrity and independence who differ in opinion as to the just force of instructions *under the Constitution*. That the people have a right to assemble together to instruct their representatives, is solemnly declared by that instrument; and this declaration would not have been inserted, if it were not considered that the instruction, when given, was entitled to respect. All agree in this: but they differ in defining the limits within which such instruction is practically obligatory. They concur in declaring that it cannot be obeyed

where it directs any action forbidden by the Constitution, or by the law of God; because no power on earth can absolve a man from his sworn obligation to defend that Constitution, or from his duty to obey his great Creator. They do not practically differ where the instruction relates to a matter of local convenience, in which the opinion of the majority of those concerned is of course the best criterion for deciding it. The debateable ground is, with respect to those matters of where the *public welfare* is concerned. The representative will here, of course, be happy to think with his constituents—will yield to their deliberate opinion very great deference—and unless he has a clear conviction to the contrary, may, without a sacrifice of conscience, believe their judgment a safe guide for his conduct. But, if he has this clear conviction to the contrary, some think he ought to obey the instruction, because he is but an agent—and *their* will, not *his*, ought to govern. Unquestionably, this is not my opinion. I hold that he is more than an agent—that he is *also* a member of a body to which *the Constitution* has intrusted him with the power of *making laws*—that the decision is not a mere matter of *will*, but of consultation with his fellows—of deliberation and judgment—and that within the sphere of delegated power, *every* functionary is bound to do what he verily believes the public good demands, and to abstain from all which, his best judgment tells him, will be injurious to the State. I am perfectly satisfied that this is the true Republican doctrine, the only doctrine which secures to the constituent the best exercise of all the faculties of his representative, and holds that representative to a full accountability for neglect to inform himself, for haste, or carelessness in decision, for error of judgment, as well as for wickedness of purpose. But be the force of instructions under our Constitution, from the constituents to their representative, what they may, I do most decidedly and solemnly protest against *any* right of the people of one county in this State, to instruct any member of this Convention how he shall perform his delegated functions.

Sir, from whom does he receive these functions—what are they—and to whom is he accountable for their exercise? The voice of the majority of the people of North Carolina, voting *en masse*, called this Convention into being, and gave to this body and to every member in it, the functions which they are to exercise. “The following propositions,” says the Organic Act, “shall be submitted to the people for their assent or dissent, the former of which shall be understood by the vote ‘For Convention,’ and the latter by their vote of ‘No Convention.’” True, after the people shall have given this assent, the delegates to frame the proposed amendments are, by the Act, to be appointed by the people in the several counties. This affords to the citizens of every county an opportunity of selecting those whose feelings and general modes of thinking are most congenial with their own;

and secures to the Convention the advantages of a knowledge of the wishes, and a sympathy with the wants, of every section of the State. But the delegates once appointed, they come as agents under the letter of attorney of the whole people, and with instructions from the whole people. Before they are permitted to form in Convention, these delegates are obliged to swear that they will not transcend the powers, nor disregard the duties, thus required of them by the whole people. *This Act* limits their powers, and *this Act* contains their instructions. They shall frame certain amendments therein pointed out, and in *their discretion*, they may propose certain other amendments submitted to *their consideration*. Within these limits, they become a consulting College—their acts have of themselves no force—their doings are to be submitted to the whole people, voting again *en masse*, and if approved by the majority of that people, then, by the authority of the whole people, they become a part of the Constitution of the State. If any portion of the people, less than a majority of the whole, dare to give instructions, either restraining the power or controlling the discretion of the delegates on the proper subjects of their deliberations, it is a flagrant usurpation. If some counties can thus tie up the understanding, conscience and will of their delegates, it is a fraud on the other counties who have their's unfettered.—There can be no arrangement—no final action—unless these, the uninstructed delegates, the delegates with *full* powers, give into the views prescribed at home to the instructed and partially empowered delegates. An interchange of opinions, consultation, discussion, are useless, when whatever may be the conviction which these may produce, the convinced are bound to act against conviction. When gentlemen talk of instructions from their constituents, other than the great and commanding instructions from the collective body of the people who gave this Convention being, and for whose weal or woe we are consulting, under the most sacred and awful obligations, it is but a proof, that they do not elevate their minds above the ordinary range of every day legislation. Ours are not local, nor temporary provisions, called for by the emergencies of the day or the convenience of particular sections of the State, but universal Constitutional Ordinances, which, once adopted, are incapable of change, save by recourse to the fountain of original sovereignty. “*Sursum corda*,” (elevate your hearts,) is the address of our country to us before entering on this solemn office. Raise your affections, raise your views, high above the interests, the excitements, the passions, the prejudices of the passing moment and the narrow circle around you. Consult for your whole country; consult for your country through all time; and swear before God that you will do this faithfully.

But, it has also been stated by the gentleman from Orange, as a reason for declining to act on this subject, that the people in his section of the country were surprised at discovering a pro-

position to amend the 32d section, in the Convention Act; that they have not had time to think of it; are at a loss to conceive how it ever came to be suggested, and are apprehensive that there may be some insidious design connected with this amendment which they cannot see. Sir, that this representation may apply to a portion of the gentleman's neighbors, is probable enough.—There are some few in every community who scarcely know ought of what is passing beyond the narrow round of their daily occupations, and to whom public intelligence of every kind, however generally known to others, comes with the impression of novelty. But surely, surely, this representation cannot apply to any large portion of the people of Orange, or of the neighboring counties—nor to any who can be supposed by themselves, or believed by others, to be capable of imparting instruction to the delegates in this body.

The amending of a Constitution is not an every day business, nor the subject of every day conversation. This is the first opportunity in sixty years which has been presented for reforming ours; but since I have known any thing of public life, it has seldom been my lot to meet with an intelligent individual at any time, or on any occasion, when the question of such a reform was talked of, who did not take it for granted, that this offensive and disgusting Article was to be either obliterated or modified.—Suffer me to advert to a few of the most prominent and efficient public movements in relation to a Convention, and to shew how uniformly an amendment of the Constitution in this respect was connected with these movements. In 1823, there was a meeting of a number of respectable gentlemen in this city, held under all the imposing forms of a “Western Convention.” I occasionally witnessed its deliberations, and was present when a motion was made to expunge the 32d section, as hostile to the principles of Religious freedom, and unworthy of the liberality of the age.—A general concurrence in these sentiments was expressed, but the motion was withdrawn at the suggestion of the President of that body, (Mr. Yancy,) that it was foreign from the objects of the Convention, as a *Western Convention*. The motion, I well remember, was made by a gentleman of the same name with, and probably a relative of, one of the delegates from Richmond in this Convention.

[Mr. HARRINGTON here rose, and stated that he was the very individual who made the proposition.]

Mr. GASTON continued: I was not aware of that fact, sir. I had not then the honor of the gentleman's acquaintance, and never having seen him since until we met in this body, I did not recognize him as the person to whose just and liberal remarks I then listened with so much pleasure. He will pardon me, I trust, for now taking the liberty of tendering to him my congratulations

on the honor, and a high honor it is, of having been the first *publicly* to invite the attention of the citizens of this State to this blot in their Constitutional law.

In the session of 1832, the advocates for Convention, in the Legislature, succeeded in having a joint committee of both houses appointed to report on the amendments which it was believed were needed in the Constitution. On examination of the Journals of the Senate, for that year, it will be seen that a Resolution was introduced by Mr. Hinton, the Senator for Beaufort, then a member, and some time before, a regular Minister of the Methodist Church, instructing the committee to enquire into the expediency of expunging the 32d Article. This Resolution passed without opposition. The committee reported a bill, in which the contemplated amendments, *eight* only in number, were specified, and among them was this: "Article 7th. So much of the 32d section of the Constitution, as provides that no person who shall deny the truth of the Protestant religion shall be capable of holding any office or place of trust or profit in the Civil Department within this State, is *hereby made void and of no effect.*" This bill was afterwards, on its second reading, upon motion of the chairman of the committee (Mr. Pearson) laid upon the table. The advocates of Convention, including the four members from Orange, one of whom is now a delegate from that county in this body, assembled on the 4th January, 1833, in this City, and resolved to publish an ADDRESS to the PEOPLE of the State on the subject of the amendments proposed in that bill: recommended to the people to vote upon them at the election in the ensuing August, and to the Sheriffs to make a return to the Governor of the number of votes so given in; and appointed a committee of three persons in every county of the State to circulate the Address among the people. The county of Orange was specially attended to on this occasion. The committee for that county consisted of four persons, and *two* of these happen to be the very two delegates who now represent that county in this Convention. The Address was drafted accordingly, and thousands of copies were distributed, through county committees. This Address is before me, and I ask attention to some extracts from it. The Address declares, "that a large portion, and as the addressers believe, a majority of the people of the State, are dissatisfied with the Constitution of the State"—that the addressers "are confident that a declaration of opinion by the people, for or against a change of the Constitution, will be received *as instructions*" by the next General Assembly; and that "in order to remove the objections of some, to defeat the pretences of many, and operate as a recommendation to all, the advocates for Convention have *put forth for discussion the changes which are demanded.*" Again, "a remedy for these evils is neither difficult nor dangerous. By your votes at the elections in August, pronounce your determination upon the ques-

tion, whether a change is needed in the Constitution. That expression of your will being sent to your representatives, they will be bound to provide a remedy, or pass a law, by which you shall be enabled to effect it yourselves." To the copies of this Address are annexed the amendments contained in the bill before mentioned, and among others the 7th Article is recited at full length. Nor is this all. The addressers *particularly* call the attention of the people to this alteration. I quote their language: "In the 32d Article of our Constitution, there is an odious restriction upon conscience, by excluding all persons who *deny the Protestant faith*. We are Protestants, and therefore we can have no personal interest in the abrogation of this restriction. But will it be expected of us, at this day, to offer arguments in favor of *Religious toleration*? We hope and believe not. It is a *disgrace* to any free people to tyrannize over the consciences of others. It is **GROSS OPPRESSION** and an undeserved imputation against the patriotism and public virtues of the Catholics of North-Carolina, to preserve any longer this *badge of our fathers' prejudices*. The Article itself is **IN CONFLICT** with our Bill of Rights, when it declares, that "all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience." Again, sir, the Address proceeds: "When Ireland had won a partial restoration of her rights by the removal of an odious restriction upon her Catholic people, we witnessed a flow of generous gratulation from the hearts of North-Carolinians, and will they turn from us with indifference, when we remind them that the same *hated tyranny* over the consciences of Catholics is sanctioned by the very charter of their liberty?" This is certainly strong and plain language, and what was the answer made by those to whom it was addressed? From the tabular statement submitted to us by our committee, it appears that 29,505 of the freemen, thus called on by this Address to *instruct* the General Assembly in relation to the proposed amendments, voted "Aye"—a number exceeding, by 1,955, that of the whole number of freemen who called the present Convention. What was then the declared sentiment of Orange? Sir, 1700 of her freemen voted *Aye*, and not *one* No! Here was a specific declaration, given avowedly as instructions. In consequence, at the session of 1833, the General Assembly undertook to prepare a *substitute* for the existing Constitution, framed in pursuance of these instructions, and to be submitted to the people for their ratification. In the report accompanying the bill, the committee say, "they recommend that the 32d Article of the Constitution should be abolished, *at least in part*, if not *altogether*. Its spirit is in conflict with Religious freedom; it has no practical use; and it may be considered a mere badge of ancient prejudice, which, however excusable in those who first engrafted it upon our Constitution, is unworthy the present age of enlightened liberality."

This substitute wholly omitted the provisions of the 32d section; expunged it, in fact, altogether from the new Constitution of the country. On examining the Journals of the Senate, it will be found that a motion was made to *insert* it in the substitute, and this motion rejected, by Yeas and Nays—Ayes 23, Noes 38.—A modification of it was then proposed, *omitting* all those parts which related to the denial of the “divine authority of the New or Old Testament and of the truth of the Protestant Religion,” and this was *accepted*, by Yeas and Nays, 50 voting in the affirmative and 9 in the negative. The substitute, *thus modified*, was supported by the entire vote of the Western counties, including the county of Orange, but was defeated by a majority of three votes. After this, a bill was introduced in the Senate for ascertaining the sense of the people of North-Carolina relative to a Convention for amending the Constitution, which bill recites that it has been represented to the General Assembly, that it is the desire of the people to reform the Constitution in certain specified particulars, and among others, “*to amend the 32d section*” thereof, and that the General Assembly feels itself bound to provide for carrying this will into effect—authorises a vote to be taken at the polls, whether a Convention shall be called to consider and amend the Constitution as proposed. This bill was supported by the delegation from Orange and of the entire West, and passed the Senate, but was lost in the House of Commons. Thereupon, another public meeting was had in this city of all the friends of Reform, including the four members from Orange, at which certain resolutions were moved by you, sir, and unanimously adopted, by which *this rejected bill* was to be laid *before the people*, accompanied by an Address to be prepared by a committee of five, explaining and enforcing the objects of the bill.—This was done, and I have now before me the Address thus prepared by the committee of five, (one of them a distinguished gentleman of the county of Orange,) and subscribed by them as the organs of that meeting. The Bill is annexed to that Address. An appeal is thus formally taken from the Legislature to the People, and those who make the appeal, set forth the changes which they demand, and the reasons by which they are supported. This appeal brings forward again and distinctly, the 32d Article. It declares that “it has no *practical effect*, because there is no tribunal by which to determine any man’s faith.” It denounces it, “as an odious badge of prejudice which the enlightened liberality of the present day should *scorn to wear*,” inveighs against it “as an unjust imputation against the Catholics of this State,” and “brands with falsehood the idle fears that are implied by this paper restriction.” It concludes on this subject with the following sentence: “How far it is consistent with the spirit of “Protestantism itself—how far it is compatible with the Bill of “Rights, which declares, that all men have a natural and unali-

“enable right to worship God according to the dictates of their own conscience, we leave to that bigotry which would perpetuate this stigma.” Well, sir, the reformers finally succeed in obtaining a Convention to consider the proposed amendments—and among others proposed by them, is that for amending the 32d Section. Now, sir, after all these public, solemn and reiterated declarations on the part of the people of Orange and the adjoining counties, of the amendments which *they* propose, desire, nay demand from their brethren of the State, with what plausibility it can be pretended that one of these very amendments is a *new* thing to them—on which *they* have had no time to reflect—it may be safely left to any man of common sense to decide. If they could rightfully instruct the delegates in this Convention as to any part of the duties enjoined by the whole people, it may be left to any man of common honesty to pronounce whether they are not *estopped* by decency, by a respect for plighted faith, by a regard for their own honor, from giving any instruction to retain in the Constitution, what *they* have again and again declared to be an “odious restriction upon conscience, a gross oppression—hated tyranny—a violation of the Bill of Rights, a badge of ancient prejudice, and a disgrace to the present age.” To turn round after succeeding in obtaining a Convention, and then not only to recal these denunciations, but to become the advocates of Religious intolerance, would be to draw down upon themselves a reproach, which, I earnestly pray, no portion of my fellow-citizens may ever be doomed to suffer. No, sir. I deny that the people of the gentleman’s county, or of his section of the country, could rightfully give such instructions; and I deny most emphatically that they ever did give such instructions. I have authentic and express evidence of their instructions, infinitely stronger than what the gentleman would *imply* from the election of himself and his colleague.

But it has been asked, why interfere with an Article which has produced no practical inconvenience; which has been in existence sixty years, and has never excluded one worthy man from office; which has been either dead, or at all events asleep, from the first moment of its existence? All unnecessary restraint on freedom of thought or action, is tyranny, and all unmeaning and inoperative restraint, folly. Such restraints can never be otherwise than practically injurious. The Constitution of a free people should be recommended to their reverence and affection by its conformity to the principles of equal justice, and its correspondence with the dictates of wisdom. It may be that this ambiguous Article has not actually kept out of the public service any individual who might have otherwise entered into it—but it does not thence follow that no practical evil has arisen from it. If it has impaired the attachment of any citizen to the institutions of his country, by causing him to feel that a stigma was

cast, or attempted to be cast, upon him, in its fundamental law ; if it has swelled the arrogance or embittered the malice of sectarian bigotry by bidding it hold up its head on high above the suspected castes of the community ; if it has checked the fair expression of honest opinion, or operated as a bribe to hypocrisy and dissimulation ; if it has drawn down upon the Constitution of North Carolina, the double reproach of manifesting at once the *will* to persecute, and the *inability* to execute, its purpose—then, vast indeed, has already been its practical mischief. But had it produced none—this would be a very insufficient apology for retaining it. Dead is it? Then is it fit for cleanly riddance.—Then let us inter the carcase, lest its pestilential effluvia should poison the atmosphere of Freedom. Asleep is it? and therefore harmless? Let us take care, while we may, that it shall not awaken to pernicious activity. Now is the time for those who would perpetuate the blessings of liberty to themselves and their posterity, to expel from the Constitution the seminal principles of future oppression. Such is the infirmity and wickedness and violence of man, that a wicked principle, either in morals or in politics, never fails, at some time or other, to bring forth fruit abundantly. Let the spirit of proscription, now dormant in this Article, be raised from its torpor by religious, or rather irreligious heats, and who can say that his children will be secured against intolerance? The gentleman from Orange pledges himself indeed for posterity, and another gentleman expresses a willingness to repeat or endorse this pledge, that no dominant sect shall abuse the power of persecution. I fear that the right of either of these gentlemen to fasten a valid engagement on future generations, may be hereafter questioned. I fear that posterity may protest their draft, because of a want of precedent authority to make it, and also of a want of funds of the drawer and indorser to answer it. After experience of the manner in which the delegates from Orange are disposed to execute pledges given in behalf of their people, pledges of a far more authentic and obligatory character, we must be excused if we be not over hasty in relying on this unauthorised guaranty.

Mr. Chairman, I have perhaps occupied too much of the time of the Committee in considering the reasons or excuses for forbearing to act upon this subject. If, in this respect, I have erred, it is from a belief that our chief difficulty lies in determining to act at all, and not in ascertaining what we ought to do, if action be resolved on. In the strongest terms I have asserted our obligation to examine and to reform this part of the Constitution, because no terms can be stronger than my conviction of the duty. The Committee will decide whether this conviction is not justified by the arguments laid before them, and if it be, will then accompany me in the enquiry, What is the reform which the interests of the State require at our hands?

If there be difficulties in ascertaining what the Article in question *effectually* enacts, we are at least able, with some degree of confidence, to pronounce what it does not enact. It in no degree abridges the *elective* franchise. Every citizen, however heretical his religious opinions, has a right to vote in the *choice* of those who make the laws, or who administer to the service of the State. It *unquestionably* has no application to military offices. However dangerous may be supposed the religious principles of an individual, he is constitutionally qualified to command the military strength of the State. It is clear, too, and I suppose will be admitted by every legal gentleman, that the prohibitions in this Article can exclude no one from *seats in the General Assembly*. Whenever the Constitution means to exclude any man from a seat in the Legislature, it says so in express terms. Thus in the 25th section, it declares that no Receiver of Public Monies, &c. “shall have a seat in either House of the General Assembly, or be eligible to any office in this State.” A seat in the Legislature is *above* offices or places of trust in the Civil Department, and is not comprehended impliedly within these terms. If there had been any good reason to doubt this construction, such a doubt would have been removed by the adjudication of the Senate of the United States upon the impeachment of William Blount, and the decision of our House of Commons, in the year 1808, in the case of Mr. Jacob Henry, a Jew, and a representative in that body from the county of Carteret. The persons, therefore, whom this Article proscribes are not only qualified to choose the law-makers and to hold military appointments, but *may* themselves become the law makers of the land. Let us pause a moment, and consider the *wisdom* of the provision. The only ground upon which a constitutional disqualification of a portion of the citizens for any public trust, can possibly be vindicated, is the public safety.—The people, the legitimate fountain of power, should not be forbidden from confiding the management of their concerns to any whom they may prefer, unless it be to those who *cannot* have the ability and integrity to serve them faithfully. Now, if the profession of certain irreligious notions, or certain heretical religious opinions, renders a man *necessarily* unfit for the public service, he is peculiarly and emphatically an unfit depository of the political power and controller of the physical strength of the State. Yet this Article permits unbelievers and misbelievers to elect those who shall enact laws—and permits them, if the people so please, to enact laws themselves for the government of the whole State, and permits them to command the militia, by whom the laws are to be enforced. If it be safe to allow them to wield these powers, on what pretence can it be alledged, that it is utterly unsafe to permit their fellow-citizens to appoint one of them to a subordinate civil employment, whatever knowledge they may have of his fitness for its duties, and whatever confidence a long and inti-

mate acquaintance may warrant them in reposing in his tried virtue? He may elect rulers, or may himself be a ruler. There is no danger in his being a member of the Senate or House of Commons—there is no danger in having a command over the armed force of the State—but, the country's safety forbids, however exemplary his conduct or excellent his character, that he should be a Judge, or a Sheriff, or a Clerk of a Court, or a Constable! Wonderful sagacity! Admirable prudence! A congeniality of sentiment sometimes betrays men into a misplaced confidence; but it seldom happens that an individual, whose opinions on any subject of deep concern, are quite different from those of his neighbors, commands their respect and affection, unless his life be such as to keep down and overrule the prejudice so naturally arising from this dissimilarity. Bad men, belonging to obnoxious sects, stand no chance of obtaining appointments; and, therefore, our Constitution takes care that good ones *shall not* be elected. Profound wisdom! This provision has been called a badge of ancient prejudice, and no doubt it is in part the result of prejudice. But it does not spring from prejudice only—from a mere dull, sullen, unreasoning antipathy. It manifests, also, the agency of another temperament or passion of a more calculating character—a passion not unfrequently seen on occasions where one would least expect it; which may be discerned through disguises most carefully put on to hide it from observation. When the renowned John Gilpin was about to enter on his gallant expedition to Edmondston, he was delighted to perceive that his money-loving spouse, in all preparations for the celebration of the happy day, still exhibited her characteristic disposition to take care of the main chance—

“ That though on *pleasure* she was bent,
She had a *frugal mind*.”

While this restraint on the freedom of choice professes an affectionate solicitude, lest the good people or their agents may ruin the country by employing as public servants, men whose faith is unsound, that solicitude is satisfied by an exclusion from offices or places of *profit*. It apprehends no danger, provided the *emoluments* of office can be kept sacred. Although bent on the preservation of religion, it has a selfish mind—it is of the same spirit which prompted multitudes to follow after the Redeemer of mankind, under the pretence of witnessing his marvellous deeds and listening to his holy doctrines, but, in truth, because he had multiplied the loaves and fishes in the wilderness. It is of the same spirit which would find a belief in the Bible or in the Koran, the rite of Baptism or Circumcision, a reasonable and useful constitutional requirement, if it but insured a monopoly of the public service money. It is the same spirit which actuates the sutlers and followers of a camp, the retainers and slaves of successful power, who discover in the hopes of victory an inducement for

fidelity, and in its plunder, a reward for baseness. It is the spirit of cupidity, cloaked but not concealed beneath the mantle of religious zeal, offering bribes for conformity—courting prejudice and bigotry on the one side, and wooing dissimulation and human infirmity on the other—it is a spirit which should find no abiding place in the Constitution of a free People.

Prejudice and cupidity are formidable foes, and will no doubt oppose an obstinate resistance to every effort which may be made to dislodge them from their hold. But we should be false to this people, if we distrusted their ability to decide correctly on this question. Lay it *fairly* before them, and no man need doubt the issue. The question is, ought there to be any Religious test in the Constitution? Shall any man be debarred from office, merely because of his *opinions* on matters of Religion? To me it seems, if there can be any certainty in moral or political science, the answer must be in the negative. It is an invasion of the right of the people to select those whom they deem worthy of confidence, and a violation of the right of the citizen to acquire the confidence of his fellow men, and to enjoy the rewards which they wish to bestow on his intelligence, industry, patriotism and virtue. In those governments which undertake to prescribe a religious faith to their subjects, and command its profession as a part of civil duty, there is at least a congruity in visiting disobedience by appropriate penalties. Incapacitation for office is *there* a punishment for disloyalty—and if it be supposed not adequate to its end, it is followed up by imprisonment, fine, confiscation, exile, torture and death. The *principle* is the same in all these grades of punishment. It is a visitation of the vengeance of the State upon those who offend against its institutions. But where a State is avowedly based on Religious Freedom, where it proclaims that every man has from nature a right, which he cannot surrender, and which none may take away—a “natural and unalienable right” to worship Almighty God according to the dictates of *his own conscience*—a right, of the correct exercise of which, his conscience is the sole judge—how can that State, without a violation of first principles, punish him by degradation because of the exercise of that very right? To this question, an answer is attempted to be given; and if the indefensible character of the cause did not forbid all wonder at any sophism that might be pressed into its defence, I should find it difficult either to restrain, or fitly to express my surprise at the nature of the pretended answer. It is very gravely said, that no man has any natural right to office, and therefore, the refusal of an office to him cannot be a punishment. Sir, how could it have escaped the intelligent mind of the gentleman from Chatham, (Mr. M’Queen,) who has given undeserved honor to this notion by his approbation of it, that although no man has a natural right to an office, *all* have an equal right to *deserve* and to *acquire* whatever may be

had without injury to others? How could he fail to discern, that although the bestowal of an office by the community on one of several competitors for distinction, ought not to be felt as a wrong by those who have been disappointed, because their claims have been fairly presented to and fairly passed upon by that community; yet an *interdict* to become a candidate and to present his claims for distinction, would be felt by every man of sensibility as an act of arbitrary power? What is punishment, but pain or inconvenience inflicted, because of something done or intended? Is there no punishment but that which causes *corporal suffering*? Are there not pangs “sharper than what the body knows?” Is an *incapacity* to be called to an office of public trust or emolument, no penalty? Is it not a putting down of those, declared incapable, below the rest of their fellow citizens? and is reproach, is loss of rank in society, no privation—no injury? The oppressor’s scorn and the proud man’s contumely, are classed by him, who of all mere mortals, seems to have best understood human nature, and to have most thoroughly read the human heart, as among the sorest ills which flesh is heir to. Insult is, of all injuries, the hardest to be borne. And what can be a more direct insult to any man, than a deliberable declaration that he is utterly unworthy of confidence. Why, sir, the miserable wretch who is whipped for larceny, writhes less under this torture, than under the *disabilities* which the conviction produces. It is no punishment to any individual not to be called on to give testimony, but to be declared infamous and incapable of giving testimony, is more than he can bear. Disgrace is the worst of punishments. It is like the shirt of Nessus, which stung the fabled son of Jove into madness. I pity, from the bottom of my heart, the poor creature who hankers after office. There is not one which this people can give, that I would turn on my heel to obtain. But to be declared by the Constitution disqualified for office, is an indignity which I could not but feel, although the consciousness that it is unmerited, might enable me to treat it with calm scorn.

Sir, I am opposed, out and out, to any interference of the State with the *opinions* of its citizens, and more especially with their opinions on Religious subjects. The good order of society requires that *actions* and *practices* injurious to the public peace and public morality, should be restrained, and but a moderate portion of practical good sense is required to enable the proper authorities to decide what conduct is really thus injurious. But to decide on the truth or error, on the salutary or pernicious consequences of *opinions*, requires a skill in dialectics, a keenness of discernment, a forecast and comprehension of mind, and above all, an exemption from bias, which do not ordinarily belong to human tribunals. The preconceived opinions of him, who is appointed to try, become the standard by which the opinions of others are measured, and as these correspond with, or differ from

his own, they are pronounced true or false, salutary or pernicious. Let the Arminian pass on the doctrines of the high Calvinist, and he will have no hesitation in branding them as utterly destructive of the distinctions between right and wrong, and leading to the subversion of all morality. Let the Calvinist determine on the soundness and the tendencies of the Arminian faith, and he will have little difficulty in arraigning it for blasphemy, as stripping the Almighty of his essential attributes, and setting up man as independent of God and needing not his grace. Law is the proper judge of *action*, and reward or punishment its proper sanction. Reason is the proper umpire of *opinion*, and argument and discussion its only fit advocates. To denounce opinions by law is as silly, and unfortunately much more tyrannical, as it would be, to punish crime by logic. Laws calls out the force of the community to compel obedience to its mandates. To operate on opinion by law, is to enslave the intellect and oppress the soul—to reverse the order of nature, and make reason subservient to force. But of all the attempts to arrogate unjust dominion, none is so pernicious as the efforts of tyrannical men to rule over the human conscience. Religion is exclusively an affair between man and his God. If there be any subject upon which the interference of human power is more forbidden, than on all others, it is on Religion. Born of Faith—nurtured by Hope—invigorated by Charity—looking for its rewards in a world beyond the grave—it is of Heaven, heavenly. The evidence upon which it is founded, and the sanctions by which it is upheld, are addressed solely to the understanding and the purified affections. Even HE, from whom cometh every pure and perfect gift, and to whom Religion is directed as its author, its end, and its exceedingly great reward, imposes no coercion on his children. They believe, or doubt, or reject, according to the impressions which the testimony of revealed truth makes upon their minds. He causes His Sun to shine, alike on the believer and the unbeliever, and His dews to fertilize equally the soil of the orthodox and the heretic. No earthly gains or temporal privations are to influence their judgment here, and it is reserved until the last day, for the just Judge of all the Earth to declare who have criminally refused to examine or to credit the evidences which were laid before them. But civil rulers thrust themselves in and become God's avengers. Under a pretended zeal for the honor of His house, and the propagation of His Revelation,

Snatch from His hand the balance and the rod;

Rejudge His justice—are the God of God;

define faith by Edicts, Statutes and Constitutions; deal out largesses to accelerate conviction, and refute unbelief and heresy by the unanswerable logic of pains and penalties. Let not religion be abused for this impious tyranny—religion has nothing to do with it. Nothing can be conceived more abhorrent from the spi-

rit of true Religion, than the hypocritical pretensions of Kings, Princes, Rulers and Magistrates to uphold her holy cause by their unholy violence.

Sir, when that moment had arrived at which an offended but yet gracious God was pleased to send his beloved Son into the world for the redemption of sinning and sinful man, a Messenger of light announced the glad tidings to the astonished Shepherds that were watching their flocks in the stillness of night, on the plains of Judea; and suddenly, he was joined by a multitude of the Heavenly Host, chaunting "Glory to God in the Highest, and on Earth, Peace, good will unto Men." Certainly never was there an event so fit to call forth this gratulation from Heaven to Earth, never an annunciation so abounding in peace and good will to all the children of Adam.

He, whose birth it proclaimed, had long been promised under the appellation of "the Prince of Peace." Of him it had been predicted, "he shall not strive nor cry, neither shall any man hear his voice in the streets; a bruised reed shall he not break, nor smoking flax shall he quench, till he send forth judgment unto victory." Truly did he bring good will and love to man, for "greater love hath no man, than this, to lay down his life for his friend." Meek and humble, patient, long suffering, and kind to all, by example as by precept, he inculcated brotherly love as the characteristic distinction by which his disciples were to be known, and forbade all violence, strife and contention in his cause. When asked to what extent the duty of forgiveness should be carried to an offending brother, he declared it to be without limit, and to the enquiry, "who is my neighbor?" he answered by that beautiful parable which, more than any positive precept, teaches that the schismatic and the heretic come within the sacred embrace of Charity. When James and John would have called down fire from Heaven to punish the cities of Samaria, that withstood him because his face was turned to Jerusalem, he rebuked them, as not knowing what manner of spirit they were of. When, in the defence of his divine Master, the ardent Peter smote the servant of the High Priest, he reproved him for the violent deed and ordered him to return the sword to its scabbard. Dragged before wicked Priests and wicked Rulers, and questioned upon the false charge by which it was sought to take away his life, he calmly proclaimed that his kingdom was not of this world. And when, finally, the unspeakable deed of iniquity was done—that deed, which nature could not witness without proclaiming her abhorrence—at which the Sun withdrew his light, and the earth quaked, and the graves gave up their dead—he breathed his last sigh in supplicating forgiveness for his persecutors. Truly has his message been one of peace and good will to man. Look through the world, and you will find liberty, law, order, science and civilization, existing only where this message is known. It

is not the Religion of the Redeemer which requires for its support the denunciations of law. Violent, wicked, selfish and cunning men, in all times and in all countries, seek to hide from others, and sometimes even from themselves, the purposes which they would accomplish and the motives by which they are actuated. The alliance between King and Church, or between State and Church, by which the latter has been taken into the keeping of the Civil Power, has sprung not so much from a zeal for Religion, not so much even from bigotry or fanaticism, as from the crooked policy of tyrannical men. A Law-Church is a convenient instrument for rulers, whether with or without religion. It enlarges their dominion, by extending it over the minds of their subjects. It puts at their disposal the high places in the Church, and enlists in their service its Ministers and Teachers. It makes Kings and Princes and Magistrates the heads of God's spiritual kingdom, and renders it sacrilege as well as treason to resist their sway. Thus has the religion of peace and brotherly love been held up as the pretext for tyranny and persecution, and its holy name been desecrated to purposes of plunder and outrage. The offices of the realm were of course the property of those only who would embrace the religion of the realm, for to differ from the Sovereign in religion, was in effect to refuse him allegiance, and disqualification for office was but a mild punishment for so heinous a crime. This penalty, which some amongst us so tenaciously cling to, is but a part of the necessary sanctions for maintaining the alliance between Church and State; for upholding a Law Church. Yet, gentlemen would fain retain it here, where the Constitution forbids the establishment of any one Church or denomination in preference to another. Let them act with some degree of consistency. Either let them blot out this appendage of an established Church, or set up a Church *as the Church of North Carolina*. Perhaps, however, they fear that the country is not yet ripe for accomplishing the latter purpose, and as cause and effect act mutually on each other, they would content themselves for the present by preserving this feature of religious preference as preliminary to, and preparing the way for, a State-Religion, at a more convenient season.

Sir, although this alliance of Religion and the Civil power did not take place for many centuries after christianity was first promulgated to the world, it became at length so general, that when the American Colonies were settled, there was no country in Europe which had not its established Church. In the train of this establishment, followed all the usual consequences of intolerance and persecution. He who did not believe according to law, was punished as a disloyal subject. Degraded, fined, imprisoned, plundered and proscribed at home, because of the exercise of man's noblest prerogative, the right to worship God according to the dictates of his conscience, different sects of Euro-

pean Christians fled from this detested tyranny to the Western side of the Atlantic. And here it was, that Religion was emancipated from her thralldom to Princes and Rulers, and the principle of *Freedom of Conscience* adopted as a political axiom, and placed at the very foundation of Civil Institutions. Sir, the honor, the immortal honor of being the first to assert this noble truth, belongs to the illustrious founders of the Catholic Colony of Maryland. Every friend of freedom throughout the world owes a large debt of gratitude to these benefactors of the human race. Let me avail myself of the occasion to lay before the Committee some notices of them and of their doings, well worthy to be remembered, and which I have taken chiefly from a highly respectable work, "*Bancroft's History of the United States.*" The research, love of truth and ability, by which this work is characterized, render it an authority on all matters of our early history, and on this subject especially, there is nothing to fear from any prejudice or partiality of the author.

At the head of the founders of Maryland was George Calvert, Lord Baltimore. He was a gentleman of high character, talents and accomplishments, who, from the purest motives, had embraced the principles of the Roman Catholic Faith. He made an open profession of his conversion, and was consequently obliged to surrender the high office which he held as one of the two Secretaries of State to James the First. While Secretary, he had obtained a Patent for the Southern Promontory of Newfoundland, and had expended much money in a fruitless attempt to settle its rugged and sterile shores. He afterwards obtained a Patent for a tract of country north of the Potomac, then uninhabited, except by scattered hordes of Indians. The Patent was drawn up according to his suggestions, although it was finally issued after his death in favor of his son, Cecil Calvert. In this fundamental charter of the Colony of Maryland were to be found the most admirable provisions for Civil and Religious freedom. "Unlike any patent which had hitherto passed the great seal of England, it secured to the emigrant an independent share in the legislation of the Province, of which the Statutes were to be established with the advice and approbation of the majority of the freemen or their deputies." Sir George Calvert, "far from guarding his territory against any but those of his persuasion, as he had taken from himself and his successors all arbitrary power, by establishing the legislative franchises of the people, so he took from them the means of being intolerant in religion, by securing to all present and future liege people of the English King, without distinction of sect or party, free leave to transport themselves and their families to Maryland. Christianity was by the charter made the law of the land, but no preference was given to any sect, and equality in religious rights, not less than in civil freedom, was assured." [1 Bancroft's History, 260.] "Calvert deserves to be ranked

among the most wise and benevolent law-givers of all ages. He was the first in the history of the Christian World to seek for religious security and peace by the practice of justice; to plan the establishment of popular institutions with the enjoyment of liberty of conscience; to advance the career of civilization by recognizing the rightful equality of all Christian sects. The asylum of *Papist* was the spot, where, in a remote corner of the world, on the banks of rivers which had been as yet unexplored, the mild forbearance of a Proprietary adopted Religious Freedom as the basis of the State." [Ditto, 262.] "Memorable was the character of the Maryland Institutions. *Every other country* had persecuting laws." "I will not," (such was the oath of the Governor of Maryland,) "I will not, by myself or any other, directly or indirectly trouble, molest, or discountenance any person professing to believe in Jesus Christ, for or in respect of Religion." "Under the mild institutions and munificence of Baltimore, the dreary wilderness soon bloomed with the swarming life and activity of prosperous settlements; the Roman Catholics oppressed by the laws of England, were sure to find a peaceful asylum in the quiet harbors of the Chesapeake; and there, too, *Protestants* were sheltered against *Protestant* intolerance." [Do. 266.] Yes, sir, while the Puritans persecuted the Episcopalians in New-England, and the Episcopalians persecuted the Puritans in Virginia, the oppressed of every Province found freedom and security in Maryland. "The disfranchised friends of Prelacy from Massachusetts, and the Puritans from Virginia, were welcome to an equality of political rights in the Roman Catholic Province of Maryland." [Ditto, 277.] The early history of Maryland is one on which the eye delights to dwell; it is the history of benevolence, gratitude and toleration. The Biographer of Baltimore could with truth assert, "that his Government, in conformity with his strict and repeated injunctions, had never given disturbance to any person in Maryland, for matters of religion; that the colonists enjoyed freedom of conscience not less than freedom of person and estate, as amply as ever did any people in any place of the world." [Ditto, 277.] There was one attempt, a most ungrateful attempt, to mar the scene of harmony and moral beauty, and, for a short time, it unfortunately succeeded. After the dissolution in England of the long Parliament, and the assumption of all power by the Lord Protector Cromwell, some of his followers in this country seized the government of Maryland, and administered the affairs of the province by a Board of Commissioners. The result is thus described by the Historian:—"Intolerance followed upon this arrangement; for parties in Maryland had become identified with Religious sects. The Puritans, ever the friends to popular liberty, hostile to a monarchy, and equally so to a hereditary proprietary, contended earnestly for civil liberty; but had neither the gratitude to respect the

rights of the Government by which they had been received and fostered, nor magnanimity to continue the toleration to which alone they were indebted for their continuance in the colony.—A new Assembly convened at Patuxent, acknowledged the authority of Cromwell, but it also exasperated the whole Romish party by their wanton disfranchisement. An act concerning Religion confirmed the freedom of conscience, PROVIDED the liberty were not extended to *Popery, Prelacy, or licentiousness of opinion.*—(Pretty extensive exceptions!) “Yet Cromwell, remote from the scene of strife, was not betrayed by his religious prejudices into an approbation of the ungrateful decree. He commanded the Commissioners not to busy themselves about Religion, but to settle the Civil Government.” [Ditto, 281.]

The next example of Religious Freedom, secured in the original and fundamental institutions of a State, was given to the world by the great and amiable Roger Williams, the founder of Rhode Island and one of the most distinguished ornaments of the Religious Society of the Baptists. This extraordinary man, at the age of thirty, had *matured* a doctrine which secures to him imperishable fame. A fugitive from religious persecution in England, “he had resolved in the capacious recesses of his mind the nature of intolerance—and he, and he alone, had arrived at the *great principle* which is its only effectual remedy. He announced his discovery under the simple proposition of the *sanctity of conscience*. The civil magistrate should restrain *crime*, but never control *opinion*—should punish *guilt*, but never violate the *freedom of the soul*.” [1 Bancroft’s History, 398.] “In the unwavering assertion of his views, he never changed his position; the sanctity of conscience was the great tenet, which, with all its consequences, he defended as he first trod the shores of New-England; and in his extreme old age, it was the last pulsation of his heart. But it placed the young emigrant in direct opposition to the whole system upon which Massachusetts was founded, and gentle and forgiving as was his temper, prompt as he was to concede every thing which honesty permitted, he always asserted his belief with temperate firmness and unbending benevolence.” [Ditto, 399.] It was impossible, that with these fixed principles of enlarged liberality, he should not often have come in opposition to the fierce doctrines which then obtained. The persecuted Pilgrims of Massachusetts were such zealous lovers of Civil and Religious Freedom, that they would fain keep it all to themselves. They could not abandon the idea of punishing heresy as a crime against the State, and of upholding God’s law by human force. “Magistrates were selected exclusively from *members of the Church*. With equal propriety reasoned Williams, might a Doctor of Physic or a Pilot be selected according to his skill in Theology and his standing in the Church.” It was objected to him, that his principles subverted all good government. The commander of

the vessel of State, replied Williams, may maintain order on board the ship, and see that it pursues its course steadily, even though the dissenters of the crew are not compelled to attend the public prayers of their companions. But the controversy finally turned on the question of "the rights and duties of magistrates" (thereby meaning civil rulers) to *guard the minds of the people* against corruption, and to punish what would seem to them heresy. Magistrates, Williams asserted, are but the agents of the people or their trustees, on whom *no spiritual power* in matters of religion can be conferred, since conscience belongs to the individual, and is not the property of the body politic; and with admirable dialects, clothing the great truth in its boldest form, he asserted, that "the civil magistrate may not intermeddle even to stop a church from apostacy and heresy," and that equal protection should be extended to every sect and every form of worship." With corresponding distinctness, he foresaw the influence of his principles upon society. "The removal of the yoke of *soul oppression*," to use the words in which, at a later day, he confirmed his early views, "as it will prove an act of mercy and righteousness to the enslaved nations, so it is of binding force to engage the *whole* and every *interest* and *conscience* to preserve the *common liberty and peace*." [Ditto 401, 402.] Compelled to fly, because of these obnoxious opinions, in winter snow, and stormy weather, for fourteen weeks not knowing what bread or bed did mean, often without fire, food or companion, often without a guide and with no shelter but a hollow tree, he at length found a safe refuge and kind treatment among the Narragansett Indians.— From them he purchased an extensive territory, and there founded the Commonwealth of Rhode Island, wherein the will of the majority was to govern in all civil things, and God alone respected as the ruler of conscience. Admirable as is the history of Roger Williams, there is no trait in his character so touching as his conduct towards his persecutors. When a most formidable conspiracy was about to be formed between the Pequods and Narragansetts, for the destruction of Massachusetts, this excellent man not only was the first to communicate intelligence of the pending mischief, but encountered every extremity of peril to avert it.— "Taking shipping, alone, in a wretched canoe, he hastened to the house of the 'Sachem of the Narragansetts.' The Pequot ambassadors, reeking with blood, were already there; and for three days and nights the business compelled him to lodge and mix with them, having cause every night to expect their knives at his throat. The Narragansetts were unwavering; but he succeeded in dissolving the formidable conspiracy. It was the most intrepid and successful achievement in the whole Pequot War; an action, as perilous in its execution, as it was fortunate in its issue." [Ditto, 430, 431.]

Next in the roll of the illustrious Law-makers who made Religious Freedom the basis of their Institutions, came the just and

benevolent William Penn. His colony of Pennsylvania was planted, grew, and thrived under the auspices of the same wise and liberal policy. Maryland, Rhode Island and Pennsylvania, before the American Revolution, were the *only* countries in which the equality of all Christian sects was established as a rule of fundamental law. It could not but be, however, that a principle so simple, so liberal, so humane, so wise, should make its way to universal adoption, where not opposed by inveterate prejudice or artificial policy. As soon as the Revolution broke out, the people of the other Colonies or States began to proclaim the principle of Religious Freedom. It is asserted, as we have seen, in our Bill of Rights, with the utmost solemnity, and the establishment or preference of any religious denomination by law, is expressly interdicted by the Constitution. Yet, this declaration of Religious Freedom, and this prohibition of a State Religion, are accompanied by the strange clause we are now examining. It would seem as though men cannot open their eyes suddenly on too bright a light. So in the Constitution of New-Jersey, care is taken to place *all* Protestant sects beyond the power of legislative action, while with respect to others, *though no exclusion is pronounced*, the same security is not given. But finally, in every other of the twenty-four States of this Union, *perfect Religious Freedom*, perfect equality of sects, an entire exemption from religious tests, are now solemnly declared to be the basis on which rest all their Institutions. This salutary principle has spread across the Atlantic, and triumphed over the misrule and inveterate usages of the ancient Governments there. With scarcely an exception, it now prevails throughout *all* Europe, and Religious opinions are no longer there a qualification for, or an incapacity for Civil employment. And can it be, that *we* shall prove recreant in this noble strife for securing the sanctity of conscience and purity of religion? Shall *we* afford to the bigots, the fanatics, and the friends of arbitrary power abroad, an apology for claiming this State as an ally in the cause of Intolerance?—I hope not. I trust that we shall act *up* to the axiom proclaimed in our Bill of Rights, and permit no man to suffer inconvenience or to incur incapacity, because of religion, whether he be Jew or Gentile, Christian or Infidel, Heretic or Orthodox. Pollute not the ark of God with unholy touch. Divine Truth *needs* not the support of human power, either to convince the understanding or to regulate the heart. Dare not to define divine truth, for it belongs not to your functions, and you may set up falsehood and error in its stead. Prohibit, restrain and punish, as offences against human society, all practices insulting to the faith, the institutions, and the worship of your people, but offer no bribes to lure men to profess a faith which they do not believe, inflict no penalties to deter them from embracing what their understandings approve, and make no distinction of ranks and orders in the community because of religious opinions.

It is not without hesitation, Mr. Chairman, that I can bring myself to advert to some observations which have been thrown out in the course of the debate, in relation to the tenets, or supposed tenets of Roman Catholics. The great battle of Religious freedom should not be fought on such narrow ground, as the exclusion of any one sect from, or its admission to, a participation of political power. Whether the charges brought be true or false, the decision on this question should still be the same. Some of these charges are so absurd, that it seems like yielding them too much honor to notice them at all; but to pass them by in silence, might be considered as a tacit acquiescence in their truth. Besides, much allowance ought to be made for honest ignorance.—The Catholics in this State are very few, and those who have had no opportunity of knowing them personally, and have learned their tenets only through the medium of their enemies, cannot be much blamed for crediting the most ridiculous falsehoods. It has been asked, whether the allegiance of Catholics to the Pope be spiritual only, and the learned gentleman from Halifax has unquestionably shewn that they do not owe him *civil* allegiance.—Sir, I object *in toto* to the term allegiance, as characterising the connection between the Catholic and the Chief Bishop of his Church. I owe *no allegiance* to any man or set of men on earth, save only to the State of North-Carolina, and, so far as she has parted with her sovereignty, to the United States of America.—The charge that Catholics owe allegiance to the Pope, is *wholly false*. Spread over the whole earth—speaking different tongues—subjects or citizens of different governments—beings of different races and complexions—they are connected by a spiritual tie, the tie of one and the same faith, which constitutes them one Spiritual family or Church. For the regulation of this wide spread Church, an Ecclesiastical or Spiritual Government is indispensable. This is mainly confided to the Bishops of the several Dioceses, and of these, the first in rank and jurisdiction is the Bishop of Rome. To him, subject to well defined laws and well ascertained usage, is committed the chief *administration*. To him—and to them—and to every spiritual or ecclesiastical teacher, *acting within his proper sphere*, respect and obedience are due. But no man owes to him, or them, or any of them, the duty implied by the term *allegiance*; the obligation of personal *fidelity*, the obligation of *defence*, as an equivalent for the benefit of *protection*. Should the Chief Bishop, in the pretended exercise of his ecclesiastical powers, (for in the Church he is known only as an Ecclesiastical superior) attempt to encroach upon the jurisdiction of the other Pastors of the Church, who claim their power from the same source from which his is derived, though not to the same extent; the principles of Catholics teach that such usurpation should be firmly and zealously resisted. Such usurpations have been attempted, and the History of Christendom shews that

upon no point has there been a more jealous vigilance upon the part, not only of the Catholic Prelates, but of the Catholic people, to prevent and repel them. His authority—their authority, is *spiritual* only—has no connection with civil duties—and is enforced only by spiritual censures. He has not, and they have not any more right to interfere with a man's obligation to his country or his fellow men, than civil rulers have to interfere with a man's spiritual concerns. Catholics peremptorily deny that the Church has any temporal power, or any right to interpose in the regulations of Government, and hold themselves bound to resist, even unto death, as tyrannical usurpation, all attempts at such interference. As a proof that this their doctrine was well known, even at the moment when for political purposes they have been most tyrannically treated by their Rulers, let me mention one extraordinary occurrence recorded in History. When Elizabeth of England had quarrelled with the Pope, and but recently put out of the pale of Catholic communion; when she was the avowed champion of Protestantism, and engaged in a tremendous war with the Catholic Monarch, Philip of Spain, the brother of her deceased sister—in the very moment of her utmost peril—she committed the chief command of that small and gallant fleet which was opposed to the invincible Armada, into the hands of a known and exemplary Catholic, lord Howard, of Effingham. And nobly was that confidence requited. She knew, and his conduct shewed, that he recognized no Sovereign but the Sovereign of his Country, and that his religious principles rendered him but the more resolved to discharge faithfully his duties as a subject.

It has been asked, whether Catholics do not believe in the power of the Pope to dispense with the obligations of an oath.—Sir, to prevent cavil, (if indeed the cavils of malicious censurers can be prevented,) let me state a distinction between oaths. Usually, oaths are taken to render more binding obligations which a man contracts with his fellow man, or with the community. He swears to fulfil his promise; to testify the truth; to execute a duty; to defend the Constitution of his country. Catholics maintain, that neither the Pope, nor Bishops, nor all nor any of the Pastors of the Church, can dispense with the obligation to observe such an oath. No power on earth, except it be the person or the community to whom the engagement is made, can free him from the obligation to keep it, even if an oath had not been superadded. The effrontery with which the contrary is asserted, does not at all prevent it from being a downright calumny. There are others, besides factious politicians, who, in their zeal to vilify their foes, disregard that awful command of God, “Thou shalt not bear false witness against thy neighbor.” There is another class of oaths, called vows—solemn promises made to God—in which no *third* party is concerned, unless it may be the Church itself which may have exacted them. In these, when a fit case is presented,

or believed to be presented—a dispensation from the *vow* may be given. This is not the occasion nor the place to vindicate, it is my purpose only to state the doctrine. It is a question of nice casuistry to determine under what extraordinary circumstances such an obligation may be released, but it is impossible not to admit that there are cases in which a compliance with a *vow* ought not to be enforced—and it is safer that the individual should not himself be the judge in his own case. Perhaps the history of Jephtha may furnish an apt illustration, where a *vow* ought not to have been kept. In the course of its discipline the Church requires that the dispensers of its mysteries should devote themselves by a solemn *vow*, to a life of perpetual celibacy. Extraordinary instances have occurred, in which it has been thought justifiable to release or dispense with this *vow*. Oppressors in all ages and in all countries, set up pretexts for oppression, and among the excuses under which the exclusion of Irish Catholics from a share of political power was sought to be justified, the calumnies that Catholics own a foreign allegiance and admit a dispensing power from oaths, were most impudently insisted on. The late Mr. Pitt, as Prime Minister of England, contemplating an act of justice to these abused men, solemnly proposed a set of interrogatories to these charges to several of the most celebrated Catholic Theological Universities in Europe. Suffer me to call your attention to some of these, and to their answers. The following questions were proposed: *First*, Has the Pope, or have the Cardinals, or any body of men, or has any individual of the Church of Rome, any civil authority, power, jurisdiction or pre-eminence whatever, within the realm of England. *Second*, Can the Pope, or Cardinals, or any body of men, or any individual of the Church of Rome, absolve or dispense his Majesty's subjects from their oath of allegiance, upon any pretence whatever? *Third*, Is there any principle in the tenets of the Catholic faith, by which Catholics are justified in not keeping faith with Heretics, or other persons differing from them in Religious opinions, in any transactions either of a public or private nature? To these questions the Universities of Paris, Louvain, Alcalá, Salamanca and Valladolid, after expressing their astonishment that it could be thought necessary at the close of the 18th century, and in a country so enlightened as England, to propose such enquiries, severally and unanimously answered: 1st, That the Pope, or Cardinals, or any body of men, or any individual of the Church of Rome, has not and have not any civil authority, power, jurisdiction or pre-eminence whatever, within the Realm of England.—2dly, That the Pope, or Cardinals, or any body of men, or any individual of the Church of Rome, cannot absolve or dispense his Majesty's subjects from their oath of allegiance upon any pretext whatsoever; and 3dly, That there is no principle in the tenets of the Catholic Faith, by which Catholics are justified in not keep-

ing faith with Heretics, or other persons differing from them in religious opinions, in transactions either of a public or a private nature.

It has also been asked, whether Catholics do not believe that they can procure forgiveness of any sin, simply by confessing it to a Priest? At times, sir, I acknowledge that I have been irritated, but far oftener have I been amused, at the strange notions entertained and the strange inquiries made about Catholic doctrines. That it should enter into the head of any man, that the great body of the Christian world, embracing many of the wisest, most intelligent and most pious followers of the Redeemer, could for one moment admit so impious, so foolish a doctrine, I could not have believed, if I were not compelled to do so by what I have actually witnessed. What notions can such an enquirer entertain of a Catholic? Does he take him—I don't ask for a Christian—but for a rational being? A friend of mine, with whom, in early life, I spent many pleasant hours, and whom the tide of emigration has carried to the West, was accustomed to relate an incident which had actually occurred to him, as illustrative of the ignorance and prejudice of a portion of the people in relation to Federalism. He had represented one of the counties of this State for several years in the General Assembly, and after quitting public life, had occasion to pass through it on an election day. Stopping at a public house, he met with some old acquaintances, well-meaning but uninformed men, who soon entered into conversation on the subject of the business of the day. "Of course," said my friend, addressing himself to one of them, "you all go for Major A. here—you used to support him, tooth and nail, in old times." "Why, no, sir," answered the good man, "we are not so mighty much for him as we used to be." "And how has that happened? What has occasioned such a change?" "Why haven't you heard, sir? Why, they say he's turned a *featheral*!" "Turned a *featheral*!" exclaimed my friend—"is it possible!—and pray what is a *featheral*?" "I don't exactly know, sir, (he rejoined,) but I allow it *aint a human*!" Such, surely, must be the conjecture which these querists entertain of the strange animal called a Papist. If quite candid, they will admit that the first time they saw one, they peered in his face for the horns which should decorate his brow, then turned their eyes down to examine his cloven feet, and finally cast a sly glance behind to get a peep at the whiskery and pendulous ornament, which they had been accustomed to regard as the appropriate appendage of the Imps of Satan. It cannot be expected, that I should enter into a detailed explanation of the Catholic tenets on the subject of Confession. It is enough for me to say, that it is the *settled doctrine of the Catholic Church*, that pardon for sin is not to be obtained but by faith, thorough and sincere repentance, a firm purpose by God's help not to sin again, a resolution, where the crime has been injurious to others,

to make complete recompense for the wrong, and an application of the merits of the Redeemer to the soul of the penitent. Confession is part of an ordinance, which Catholics believe to have been instituted by the Saviour, which they term the Sacrament of Penance, and in which is demanded from the penitent an outward profession of that contrition by which he is internally penetrated. All practical Catholics—Popes, Prelates, and Priests, Emperors, Kings, Nobles, learned and unlearned, great and small, rich and poor, who feel their consciences oppressed with a sense of guilt, are required humbly to accuse themselves of their offences, and to *specify* them. It is not enough that they shall confess that they have done the things which they ought not to have done, and left undone the things which they ought to have done; but they are bound to admit themselves guilty in the sight of God, of having violated *this* command, and of having omitted *that* duty. And no pardon is pronounced, promised, invoked, expected or asked, but on the *express* condition of full repentance and future reformation. The enquiry is not *here*, whether this belief is orthodox, but whether this practice disqualifies them for the honest discharge of the duties of a citizen. Sir, my testimony may be of little avail, but I owe it to the cause of truth, and I will therefore give it without hesitation. I have mingled intimately with Christians of every denomination; but of all the religious observances with which I am acquainted, as practised by any sect, *none* so effectually as this, compels self-examination, keeps down pride of heart, checks progress in crime, or restrains irregular appetite and passion. Voltaire, who hated the Christian, and above all, the Catholic Religion, with intense hatred, has yet left on record *his* opinion, that the wit of man never had devised and never could devise a happier security for human morals. Let those Christians who reject the practice as one too humiliating to be borne, and who deny that it has sufficient warrant for its introduction into the Church, calmly, resolutely and conscientiously oppose the Catholic faith by argument. But they ought not, and such of them as are indeed Christians, will not misrepresent or traduce it.

But it has been objected, that the Catholic Religion is unfavorable to freedom—nay, even incompatible with Republican Institutions. Ingenious speculations on such matters are worth little, and prove still less. Let me ask who obtained the great Charter of English freedom, but the Catholic Prelates and Barons at Runnymede? The oldest—the purest Democracy on earth, is the little Catholic Republic of St. Marino, not a day's journey from Rome. It has existed now for fourteen hundred years, and is so jealous of arbitrary power, that the Executive authority is divided between two Governors, who are elected every three months. Was William Tell, the founder of Swiss liberty, a Royalist? Are the Catholics of the Swiss Cantons in

love with tyranny? Are the Irish Catholics friends to passive obedience and non-resistance? Was Lafayette, Pulaski, or Kosciusko, a foe to Civil Freedom? Was Charles Carroll, of Carrollton, unwilling to jeopard fortune in the cause of liberty? Let me give you, however, the testimony of George Washington. On his accession to the Presidency, he was addressed by the American Catholics, who, adverting to the restrictions on their worship, then existing in some of the States, express themselves thus: "The prospect of national prosperity is peculiarly pleasing to us on another account; because, while our country preserves her freedom and independence, we shall have a well-founded title to claim from her justice *the equal rights of citizenship, as the price of our blood spilt under your eye, and of our common exertions for her defence, under your auspicious conduct.*" This great man, who was utterly incapable of flattery and deceit, utters in answer the following sentiments, which I give in his own words: "As mankind become more liberal, they will be more apt to allow that all those who conduct themselves as worthy members of the community, are equally entitled to the protection of Civil Government. I hope ever to see America among the *foremost* nations in examples of justice and liberality: and I presume that your fellow-citizens *will not forget the patriotic part which you took in the accomplishment of their Revolution and the establishment of their Government*, or the important assistance which they received from a nation in which the Roman Catholic Faith is professed." By the bye, Sir, I would pause for a moment to call the attention of this Committee to some of the names subscribed to this Address. Among them are those of John Carroll, the first Roman Catholic Bishop in the United States, Charles Carroll, of Carrollton, and Thomas Fitzsimmons. For the character of these distinguished men, if they needed vouchers, I would confidently call on the venerable President of this Convention. Bishop Carroll was one of the best of men and most humble and devout of Christians. I shall never forget a tribute to his memory paid by the good and venerable Protestant Bishop White, when contrasting the piety with which the Christian Carroll met death, with the cold trifling that characterized the last moments of the sceptical David Hume. I knew not whether the tribute was more honorable to the piety of the dead, or to the charity of the living Prelate. Charles Carroll, of Carrollton, the last survivor of the Signers of American Independence—at whose death both Houses of the Legislature of North-Carolina unanimously testified their grief, as at a national bereavement! Thomas Fitzsimmons, one of the illustrious Convention that framed the Constitution of the United States, and for several years the Representative in Congress of the City of Philadelphia. Were these, and such as these, foes to freedom and unfit for Republicans? Would it be dangerous to permit such men to be Sheriffs or Constables in the land?

Read the Funeral Eulogium of Charles Carroll, delivered at Rome by Bishop England—one of the greatest ornaments of the American Catholic Church—a foreigner indeed by birth, but an American by adoption, and who, on becoming an American, solemnly abjured *all* allegiance to every foreign King, Prince and Potentate whatever—that Eulogium which was so much carped at by English Royalists and English Tories—and I think you will find it democratic enough to suit the taste and find an echo in the heart of the sternest Republican amongst us. Catholics are of all countries—of all governments—of all political creeds. In all, they are taught that the kingdom of Christ is not of this world—and that it is their duty to render unto Cæsar the things which are Cæsar's, and unto God, the things which are God's.

But, Sir, the gentleman from Martin has told us with the air of one who firmly believed that he was announcing a truth of mighty import, that he had heard somebody say, that he had heard a man, who called himself a Catholic, say, that he no more minded taking an oath on a Bible, than on a Spelling-book.

[Mr. COOPER begged leave to correct the gentleman from Craven—he had said the *Testament*, not the *Bible*.]

Mr. GASTON proceeded: I beg the gentleman's pardon for the mistake. As this is the *only* argument which has been yet put forth in *defence* of the proscription contained or supposed to be contained in the 32d Article, it is right that it should be stated with precision. I thank him for the correction, and assure him that the mistake was one of inadvertence, not of design.—Straws indicate whence the wind blows—and this *argument* shows whence arises the Anti-Popery clamour. It may be thought idle to treat it seriously—but if that gentleman be in earnest, and I am bound to suppose he is, I am sure that *he* at least will take kindly the explanation which I am about to give him. It is the doctrine of Catholics that an oath is a solemn appeal to God—and that such an appeal, in *whatever form* made, is binding on man's conscience. The Catholic Church prescribes no form for an oath, but leaves that to be regulated by the usages or laws of every country. The invocation of the God of Heaven—deliberately and solemnly—as the Author of Truth and the avenger of Falsehood, constitutes the oath. In ancient times, before the discovery of Printing, and when Bibles were rare, the most usual ceremony accompanying the oath was kissing the Cross as the emblem of man's salvation, and the type of Christ's astonishing sacrifice. In several Catholic countries, this mode yet prevails. In others, it has been succeeded by the ceremony of kissing the book of God's holy Gospel. In others, by the outstretched arm, raised towards Heaven. In all countries, and in all sects, there are ignorant and wicked men who attach importance to the form in which an oath is administered and disregard its substance. He who has been accustomed to see it al-

ways taken in one prescribed manner, may think it not obligatory when otherwise tendered. Just as I have seen, and every professional man in North Carolina of extensive practice has seen, miserable fools and knaves *here* who thought to escape the guilt of perjury, if they were careful not to bring the Testament into *actual contact* with their lips.

Another gentleman, (Mr. Speight of Greene,) who has a great reverence for Religion, but is not as religious as he could wish to be, and has a great toleration for all Religions, but for some unexplained cause, will vote for retaining the 32d section as it is, has thought proper to read two extracts from a controversial work—Faber's difficulties of Romanism. It is manifest that the gentleman had resolved how to vote and had resolved also to speak, before he found the book which was to furnish the chief materials of his speech. The selections were made in haste, and therefore turn out to be unsuited for the purposes which they were brought forward to answer. The first passage gives a form of profession of faith, in which the declarant is made to say, that he rejects, condemns and anathematizes as heresy, whatever the Church by any general Council has decreed ought to be rejected, condemned and anathematized, as heresy. This I presume is quoted as an instance of intolerant persecution. I suppose that no man can be regarded as a member of a Church, who rejects *the creed* of that Church, and that of course he regards those doctrines as erroneous, which the creed of his Church pronounces to be erroneous. Catholics believe that the unity of faith can only be maintained by preserving as a sacred deposit, the doctrines originally revealed from Heaven—that the Pastors of the Church form the tribunal *to testify* in every place and in every age not opinions, but the fact of this original communication—that when doubts or disputes arise on matters of faith, these witnesses are summoned from all parts of the world to declare what has been handed down to them as that communication—that when they concur in declaring that the doctrine has or has not been delivered to them as part of the original deposit of faith—the members of the Church then have certain evidence and certain knowledge of the truth. This is what is meant by the infallibility of the Church—not the infallibility of the Pope—this is no part of the Catholic Faith, but the infallibility of the Church. What it has authoritatively decided to be truth, must be received as truth by all her children. What it has thus decided to be error, they must also pronounce to be error. If they choose to set up their individual *opinion* in opposition, not to the *opinion*, but to the testimony of the Church, with regard to *the fact* of a revelation—they can do so. But then they separate from her communion, and to God it must be left to pronounce how far such separation has proceeded from innocent mistake or guilty pride. But does any man infer, be-

cause the doctrine which the Church denounces as erroneous, the members of that Church also denounce as erroneous, that therefore the Church or its members are to *punish with civil penalties*—to persecute with degradation, pecuniary mulcts, torture or death, the persons who profess these erroneous doctrines. I can only say that if so, he reasons most illogically. His conclusion is a plain *non sequiter*. Connected with this mistake or misrepresentation is another, which I have heard of, although it has not been mentioned here. It is said that the Catholic Bishops actually take an oath to *persecute* heretics! Whether this charge originated in misapprehension or in calumny, it is equally false. They pledge themselves diligently to search out, follow after and remove all false doctrines which may spring up among their flocks. The latin term "*Prosequor*," to follow out or follow after, from which has come the well-known term Prosecution—the carrying on of an enquiry or investigation—has been changed into *persecute*; the doctrines have been changed into the persons who profess them, and by this slight alteration of phrases, an obligation, perfectly Christian in its character, has been converted into an inhuman and anti-Christian vow of persecution. But the gentleman was solicitous to shew how inhuman Catholics had actually been in the persecution of Protestants, and for that avowed purpose produced the other selection from Faber. In a note to Faber, a statement is given of a ferocious engagement entered into by the Representatives of many Princes and Ecclesiastics who had attended the Council of Lutheran, for hunting out and reducing to servitude a set of Heretics whom they designate by several opprobrious names. It is not easy at this time, to ascertain how far these unfortunate beings deserved the hatred which they had incurred; but it is impossible not to revolt at the cruelties denounced against them. It is rather ludicrous, however, to call this a persecution of Protestants, since it took place about three hundred and forty years before Protestants and Protestantism were heard of. It happened in the year 1189. If the gentleman had more fully examined the subject, he would have met with little difficulty in finding more appropriate instances to establish upon Catholics the charge of having persecuted Protestants. Had he examined into the history of religious persecution extensively, he would have found as little difficulty in shewing that Protestants had not been one whit behind in persecuting Catholics—or in persecuting each other.—But why is this humiliating and disgusting subject raked up, and exhibited? Is it for the purpose of awakening ancient animosities, of creating bad feelings, of blowing into a flame the sleeping embers of wrath, malice and uncharitableness? This does not seem a very humane, wise or liberal purpose. Alas! I fear that even now we are deserving of the reproach of the cynical Swift: we have just religion enough to hate, and not enough to love each

other. Further exertions to increase this anti-christian disposition would seem to be at least unnecessary. The history of Persecution may, however, be properly referred to, for another and a very different purpose—to shew the mischiefs which necessarily follow from making religion an affair of State, and giving a political predominance to any sect—to demonstrate that Calvert, Williams and Penn, acted with the benevolence of Christians and the wisdom of Statesmen, in making all sects equal before the law—to invite us to follow in their footsteps and to pursue their principles out to their full and legitimate extent, by obliterating from the constitutional law of North-Carolina every vestige of the spirit of persecution for conscience sake, every trace of disqualification and proscription because of religious principles.—I hope and trust, that this will be done, and that North Carolina will shake off the reproach of lagging behind the other States of the Union, behind the lately enlightened States of Europe, and behind even the spirit of the age, by incorporating into her fundamental institutions the principle of perfect Religious freedom. I protest against all partial and mitigated reforms of the doctrine of Intolerance. Of course, I must accept the *most* that can be obtained, but I shall not be content with any thing short of the total abrogation of Religious Tests.

So far as the question has been discussed here, there has been in effect *no contest*. The cause of Intolerance has been left undefended. Gentlemen have had too much pride, too much sense of character, to undertake before this enlightened Assembly, to *vindicate* this proscriptive Article in our Constitution. They have argued about and around the true question, and have suggested different considerations for declining to act upon the subject; but they have not ventured to come out openly, and insist that the Article is a wise and salutary provision. The cause of Intolerance has been undefended, because it is indefensible. The advocates of freedom might confidently, then, one would think, calculate that the result will be auspicious even to their utmost hopes. But, alas, sir, it by no means follows, that the decision of this body will be an exact expression of *its conviction*. There are many external forces to disturb our judgment, and cause it to *swerve* from its propriety. Would that the noble sentiment, which we yesterday heard, as it came with such truth and feeling from the lips of youthful and fervid eloquence, (Mr. Rayner.)—“Dare do right, and trust the consequences to God,”—were the governing principle upon every question here! Not a doubt could then be entertained of the result. In the sincerity of my soul, I believe there are not twenty, and I doubt whether there be ten members of the Convention, who would not be well pleased to have the section utterly obliterated. But gentlemen declare themselves afraid, alarmed, lest they should give a shock to prejudice, and this is spoken of as if it were some dreadful and ap-

pulling calamity. Suppose they should, what is the mighty mischief? It may impose upon them the necessity, if they wish to stand well with their neighbors, to explain the reasons by which they have been influenced, and to prove the propriety of their course. This is some inconvenience indeed, but surely no one expects that the way of duty is to be always smooth and pleasant, a mere primrose path of dalliance. It is possible, however, that the inconvenience may be greater than this. They may not be able to convince all their constituents that the decision was right. Such may be the ignorance, or prejudice, or excitement, at home, that it will not immediately yield to reason. And has it come to this? Is all our boasted Patriotism an empty name? Is a public man to risque nothing for the public good. Shall he model himself after Mr. By-ends, of Fair-Speech, in the Pilgrim's Progress? This distinguished personage was desirous to accompany Christian and Faithful in their pilgrimage to the Celestial City, but then he made it a rule "never to sail against wind or tide," and always "had the luck to jump in judgment with the present state of the times, whatever it might be." I am humbled—I almost despair of my country—when I find honorable men, clothed with the holy trust of passing in judgment on the things which make for the lasting freedom, honor and happiness of this people, hesitating to do right—looking over their shoulders—fearing that they may run counter to a partial or temporary excitement at home, and thus yield a petty advantage to some miserable factious demagogue in the contest for popular favor. It would seem as if the tenure of office had become a species of privileged villainage—public trust to be held only on the render of base services. Favor is not worth having, if it is to be propitiated or secured upon these terms. But gentlemen declare that it is not on account of the consequences to themselves they are afraid to give a decided vote for Religious Freedom.—These consequences they are prepared to hazard—but they fear, should the Constitution be so amended as to come in conflict with Sectarian prejudice, this may endanger its adoption by the people. If, indeed, this fear be well founded, it opens a view well calculated to excite the most painful forebodings. Our brethren from the West have complained of unequal representation as an intolerable grievance, and have demanded its removal with the most persevering earnestness. If, when this object is arranged to their entire satisfaction, they shall nevertheless reject the amended Constitution, unless it enables them to proscribe from a participation in places of trust, those who differ from them in religion, then one of two conclusions is necessarily forced upon the mind. Either the evil complained of, has not been as sore as they would make us believe, or such is the bitterness of their sectarian zeal, as to render it utterly unsafe to trust them with the political power of the State. The inconveniences of unequal

representation are not to be compared with the mischiefs of Religious persecution—and those in the East who have been solicitous to cure the former, would be traitors to their country, if, under any pretence, they opened a door for the infliction of the latter. I pretend not to be a politician, and am poorly qualified to judge what effect particular amendments may have in rendering the new Constitution palatable or unpalatable to the mass of the people; but I can never believe that there is danger of rendering our work unacceptable, by embodying in it the strongest provisions in favor of religious liberty. No doubt there are many who, either because of rooted prejudice, or mis-information, or temporary excitement (it is needless to say how, when, or by whom produced) wish the Constitution to confine offices only to those whom they deem of the Orthodox Faith. It is possible, that a portion of these will not yield this unreasonable requisition to any explanations which may be made, or any reasons which can be urged. Nay, it may even happen, that some few may, on that account, vote against a ratification of the Constitution, altho' in all other respects rendered conformable to their views.

But we may rest assured that their number can bear no assignable proportion to the great body of intelligent and liberal men, East and West, who will support no Constitution inconsistent with the first principles of rational freedom, and who are ready to come forward as its advocates if it be made to conform to them. A very few noisy individuals, scattered here and there, although their clamor may be loud, must not be taken as fair exponents of the public sentiment. The steady, reflecting and determined portion of the community make little noise and shew little excitement, for it is not their nature to be clamorous. But when the fit moment comes, they act, and their action is decisive. I have more than once endeavored to impress upon the Convention, the expediency of making no unnecessary changes in the practical forms and usages of the Government. In these, I would consult even the common prejudices of the country. The people are accustomed to the observance of ancient forms. Habitual obedience begets reverence and attachment to them, and thus a strong tie is made to connect their feelings and opinions with the institutions of their country. No is no statesman who would rashly sever such a tie. In the matter however, which we are now examining, there is no practical usage which is sought to be discarded—no new form or regulation attempted to be introduced in its stead. The proscriptive denunciation contained in this Article, whether it could or could not be enforced, never has been enforced. The question before us is one, not of practical convenience, but of fundamental principles. He who would sacrifice such principles to the passion or caprice or excitement of the moment, may be called a politician, but he is no Statesman. We are now examining into the sound-

ness of the foundation of our institutions. If we rest the fabric of the Constitution upon prejudices, unreasoning and mutable prejudices, we build upon sand; but let us lay it on the broad and firm basis of natural right, equal justice and universal freedom—freedom of opinion—freedom, civil and religious—freedom as approved by the wise, and sanctioned by the good—and then may we hope that it shall stand against the storms of faction, violence and injustice, for *then* we shall have founded it upon a rock.

Mr. DOCKERY rose to make a suggestion to the gentleman from Craven, who had just addressed the House so eloquently, viz: That the propriety of amending this Article be submitted to the People in a distinct and separate proposition. To incorporate it in the Constitution, would endanger its ratification by the people. After the satisfactory exposition of the principles of the Catholic Faith by the gentleman from Craven, he was willing, individually, to amend the Article, but could not jeopard their whole labors here, by interfering with it.

Mr. D. said, it had become very fashionable here, and fashion was contagious, for gentlemen to give an expose of their Religious tenets. The gentleman from Buncombe, (Mr. Swain,) said he belonged to the Presbyterian Church, if he had never been turned out. He (Mr. D.) belonged to the Baptist Church, and was certain he had not been turned out. But though a member of that Church, he was not disposed to exclude Catholics from office, however all who were opposed to the alteration of that Article at this juncture might be denounced as bigots or branded as fanatics. Was no respect to be paid to the feelings or prejudices of the people on this question? Whatever other political sins he might have to answer for, no one could accuse him of paying too much court to the people; on the contrary, his friends thought he paid too little; but when their wishes were known, they ought to be respected.

Much had been said by the gentleman from Craven, in relation to the overtures made to the East from the West. In his section of country, nine-tenths of the people were not aware that this Article was to be touched. And why, sir? Because the publications referred to, were not distributed extensively in the West, information in that quarter not being necessary, as was imagined; but the East was flooded with pamphlets. It was sufficient for the West to know that a Convention was to be called to redress their grievances on the score of unequal Representation. As to the vote on Convention being thinner one year than another, to which the gentleman had alluded, it was owing to the circumstance of the people having discovered that this Article was to be changed. At one of the election grounds in his county, he had been asked by several gentlemen, if the Constitution, when formed, would be submitted to the people. On his assurance, that it would, they then said they would vote for calling a Con-

vention, reserving the right to vote against the Constitution if this Article were interfered with.

Mr. D. repeated, that he wished to shew that he did not deserve to be branded as a bigot; for, if an opportunity were offered him for voting to amend the Article at the polls, he would do so. He would do so in Convention, but from a conviction, that the people would reject the Constitution if it were altered.

Mr. GASTON said, that having expressed his views so fully, it was with extreme reluctance he rose to say another word. He had intended, when a similar suggestion to that now made by the kind gentleman from Richmond, was thrown out by the gentleman from Greene, (Mr. Speight,) to have said a word in reply. The gentlemen seem to predicate their suggestions on the ground that *he* had some particular, personal interest in this matter.—He begged to assure them that this was not the case—that if Catholics were excluded from office, no man in the State would feel less pain at the circumstance than he would. He believed, if a downright attack were made upon Religious freedom by the retention of this article, it would stir up the real good sense of the people, and after a little effervescence of feeling had worked off, that there would be, from the mountains to the sea-board, but one sentiment of dissatisfaction.

With regard to the suggestion about detached amendments, he was for two reasons opposed to it. In the first place, we have no authority to do it; and in the second, if we had, we ought not. We are to submit an *entire* Constitution to the people—not detached amendments—it must go to them as an *unit*.

Mr. HARRINGTON did not rise to inflict a speech on the Committee, but simply to say, that twelve years ago, having had the honor to propose that this stain should be blotted from our escutcheon, he was now, as then, disposed to incur any responsibility which might rest upon him. His voice, it was true, had not been heard in this discussion, but his silence must not be construed into a wish to skulk from duty. He was prepared to go for the most liberal amendment.

Mr. SMITH, of Orange, regretted that he should be again called to address the Committee on this question, but circumstances rendered it necessary he should appear either in person or by attorney. It would seem that the Convention had assembled to discuss the expediency of establishing some new Religion, or to witness the trial of the County of Orange and her Delegates on this floor. He had yet to learn what either of them had done to merit such particular distinction. He felt it to be his duty to submit a few observations, in reply to the gentleman from Craven, who had singled out the people of Orange as a target to shoot at; though, as the Chairman of this Committee well knew, he did not possess the physical ability to go into an elaborate investigation of matters, which he once enjoyed.

In 1823, he was a member of the informal Convention, held in this City, to which the gentleman from Craven had alluded. This Article was discussed in that Convention, and was retained in the Constitution presented to the people. His own impression at the time, was, that it ought to be altered, but more mature reflection had changed his opinion. His name had also been read out by the gentleman, as composing one of a Committee appointed to distribute an Address, in which the expurgation of this Article was recommended. It was true, that the appointment had been conferred upon him, but it was equally true, that he had not distributed the documents forwarded to him. They were sent to his Office in Hillsborough, where, he presumed, the greater portion of them yet remained. But suppose it all true ! that he had circulated them, and that the people of Orange were once in favor of an amendment of this Article and were now opposed to it ? He wanted to know who had the right to say they should not change their opinions as often as they pleased. They had the right, and were not to be arraigned on this floor for the exercise of it. They also had the right to instruct their Delegates ; for every community is privileged to express its opinions, and the right to do so in smaller matters, involves the right to do so on more important questions. Is Orange county, with her 2500 voters, too insignificant to be heard on this floor ? Whatever others thought, he felt himself bound to obey the known wishes of his constituents, and he should do so.

Allusion has also been made, said Mr. S. to the small number of votes by which I was elected a Delegate of this body. The vote was not a large one, it is true Sir, but it was large enough to elect me. But why was the vote so small ? There were ten Candidates, every one of whom was probably more worthy than himself but the people did not think so, and the vote was divided among so many, that the largest vote was a small one. This Sir, is the reason. If, however, he had been sent here by twenty votes, he should consider himself as representing the whole county of Orange. He was born and raised there, and ought to be presumed to know the feelings and wishes of the people.

Mr. S. said, that for the remarks which he had previously submitted on this question, he had been called a bigot ; but he imagined that he was about as free from the influence of Priestcraft as any gentleman on that floor. The object of all governments is to secure the happiness of the people ; and when the wishes of the people are known, a good government will conform to them. In the British Government, within a few years, how often has the Sovereign himself been compelled to yield to the force of public opinion as a matter of policy. The same results have occurred in France ; and elsewhere, the most power-

ful Sovereigns have bowed with deference to its irresistible influence. It is more operative in this country, and the principle applies with equal force to large or small communities of men.

Sir, said Mr. S. there is no reason why this Article should be amended—there is no emergency which demands it. What persecutions have been attempted, that gentlemen are so excited? He had said nothing in disparagement of Roman Catholics; he had as much respect for some Catholics that he knew, as any member of this Convention. But he was not willing, by expunging this Article, to let in Turks, Hindoos and Jews. They might call him a bigot as much as they pleased, but he would not consent to this. In what way could we bind them to a proper discharge of their duties, if we should admit them? Must we swear the Turk on the Koran—must we separate the Holy Scriptures, that we may swear the Jew on the Old Testament? If a Turk comes to our country, let him be a Mussulman and enjoy his Religion; but if he thrusts himself into our Civil Compact, he ought to worship as Christians worship. And whatever the gentleman from Craven might think, he could not concur in his latitudinarian doctrines of Religious freedom. As an American citizen, and a native born son of North-Carolina, he was willing that every sect should indulge in their own peculiar species of worship; but he was not willing that they should fill the high places of the land. The rights of men are necessarily restricted. The Minister of the Gospel is precluded from a seat in the Legislature, because policy requires it, and there are various other restraints. No one is eligible to the Legislature who does not possess landed property; a man cannot vote for a Senator, unless he owns a freehold. These are civil rights, as contradistinguished from natural rights; and no man should be branded as a bigot, because he considers *that* Government best, which restrains fewest of the natural rights of men. The right of conscience was a natural right—it did not grow out of the regulations of Society.

The gentleman from Craven had charged the West with holding out false colors to the East as an inducement for them to meet in Convention. The West wanted nothing but sheer right, and if the East have aided them to obtain it, they did so doubtless from correct principles. He never imagined himself, that they were to give a consideration for the vote of the East. He stood perfectly acquitted to himself of the charge of having made any bargain touching the matter. He thought that the discussion would end as it has, and that was one reason why he endeavored to prevent it, in the first instance, by moving to lay the Resolution on the table. It was not true in point of fact, that this was an Eastern and Western question; for so far as he had been enabled to judge from conversation with Eastern gentlemen, they were more unequivocally opposed to an altera-

tion of this Article than the West themselves, who it is said, held out the amendment of this Article as a bait. He did not wish to offer any violence to the understanding which had hitherto existed between the two sections, and regretted that he had to trespass again on the time of the Committee; but having been instructed by an unequivocal expression of public opinion, he felt bound to state the fact.

Mr. S. said he was willing to yield to the voice of the people; and if this was deemed so important a matter, why not submit it to them, as a separate proposition. If they would do it, at the next August Election, his word for it, the question against expunging the Article would be decided by an overwhelming majority. Has it come to this, that the sovereign will of the people shall not rule? And that there shall be no expression of it, because it may come into collision with this body? It was the most Anti-Republican doctrine he ever heard broached, and was certainly one which could not receive the sanction of this Convention.

The question now recurring on the amendment offered by Mr. *Wellborn*, to strike from the Article the word "Protestant," and insert "Christian," it was decided in the affirmative; and the Committee rose and reported the Amendment to the Convention.

WEDNESDAY, JULY 1, 1835.

The Convention resolved itself into a Committee of the Whole, on the unfinished business of yesterday, Mr. FISHER in the Chair; being the Report on the 32d Section; when Mr. EDWARDS moved to amend the Report, by inserting the following, viz:

"That all men having a natural and unalienable right to worship Almighty God, according to the dictates of their own consciences, all Religious Tests, as qualifications for Office, are incompatible with the principles of Free Government."

Mr. GAITHER, from Burke, said, he preferred the Report of the Committee of the Whole to the proposed amendment. He would, himself, be in favor of the most liberal amendment to this Article of the Constitution, for he considered it a blot on that instrument; but, as he was convinced it was the desire of a considerable portion of his constituents to retain the Article, and that if any great alteration were made in it, they would not accept of the amended Constitution, rather than run the risk of the loss of that, he should accept the proposed amendment of the gentleman from Wilkes, (Mr. *Wellborn*,) as reported by the Committee of the Whole. Mr. G. was sorry that so strong a prejudice should prevail in his section of the country against the Roman Catholic Religion; but that he had no doubt when the people came to read

the able exposition of the doctrines of that Religion, which had been given to this Convention by the gentleman from Craven, (Mr. Gaston,) these prejudices would entirely vanish, and the amended Constitution would be well received.

Mr. JOINER rose, he said, to make a speech, but it should be a short one. He expressed himself perfectly satisfied with the Article of the Constitution under consideration, and therefore opposed to any amendment of it. He had no doubt the framers of the Constitution had good reason for placing this Article in it, and he wished to retain it. He believed it was intended to prevent the Roman Catholics from being admitted to office in the Government, and he approved of it. He wished to keep it as *sleeping thunder* to be used when wanted.

The question on Mr. EDWARDS's proposed amendment, was taken by Yeas and Nays, and negatived, 87 votes to 36.

YEAS.—Messrs. Andres, Bonner, Bryan, Branch, Bunting, Carson, of Burke, Calvert, Daniel, Edwards, Gaston, of Craven, Gaston, of Hyde, Hall, Hodges, Hugins, Howard, Harrington, Jacocks, Kelly, Macon, McPherson, Marchant, Marsteller, Meares, Outlaw, Owen, Rayner, Roulhac, Swain, Sawyer, Skinner, Spaight, of Craven, Saunders, Tayloe, Troy, Williams, of Franklin, Wilson, of Perquimons—36.

NAYS.—Messrs. Averitt, Arrington, Bowers, Baxter, Brittain, Biggs, Birchett Brodnax, Boddie, Crudup, Cathey, Cox, Cansler, Cooper, Chalmers, Chambers, Dockery, Dobson, Elliott, Ferebee, Fisher, Faison, Franklin, Gatling, Gaither, Graves, Gilliam, Guinn, Grier, Gaines, Gary, Gray, Giles, Gudger, Hill, Hogan, Hargrave, Hussey, Hooker, Hutcheson, Halsey, Holmes, Jones, of Wake, Jervis, Jones, of Wilkes, Joiner, King, Lea, Lesener, McQueen, Morris, McMillan, McDiarmid, Melchor, Morehead, Martin, Montgomery, Moore, Norcom, Powell, of Columbus, Pearcell, Parker, Pipkin, Powell, of Robeson, Ruffin, Ramsay, of Chatham, Ramsay, of Pasquotank, Styron, Sugg, Stallings, Speight, of Greene, Shipp, Sherard, Smith, of Yancy, Shoher, Spruill, Toomer, White, Wilson, of Edgecomb, Welch, Wooten, Williams, of Person, Williams, of Pitt, Whitfield, Wellborn, Wilder, Young.—87.

Mr. JACOCKS then offered an amendment, in the following words:

“No person, who shall deny the being of a God, shall be capable of holding any office, or place of trust or profit in the Civil Department within this State; provided that the liberty of conscience hereby secured, shall not be construed to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State.”

The question on this amendment was taken, without debate, by Yeas and Nays, and was negatived, by 82 votes to 42.

[The Yeas and Nays on this question were the same as on the last, except that Messrs. Averitt, Birchett, Chalmers, Gilliam, Hill, Kelly, and Powell of Robeson, who voted in the negative on the first question, voted in the affirmative on this; and Mr. Holmes, in the negative on the first question, was in the affirmative on this.]

Mr. HOLMES then proposed the following substitute:

“That no person who shall deny the being of a God, shall be capable of holding any office, or place of trust or profit, in the Civil Department within this State. The exercise and enjoyment of every religious

profession and worship, without discrimination, shall forever be free to all persons in this State, provided the right hereby declared and established, shall not be so construed as to excuse or justify practices incompatible with the freedom and safety of the State, and provided further, that no preference shall ever be given by law to any religious sect, or mode of worship."

The question on this amendment was taken, without debate, by Yeas and Nays, and was negatived, 78 votes to 46.

[The Yeas and Nays on this question were the same as on the last, except that Messrs. Ferebee, Faison, Pipkin, and Ramsay of Pasquotank, who were in the negative on the last question, were in the affirmative on this.]

Mr. SWAIN observed, that as it appeared evident, from what had taken place, that no other amendment to the section in question would be adopted, than that moved by the gentleman from Wilkes, which had been reported by the Committee of the Whole, he hoped the Members of the Convention would forbear to offer any further amendment, and act at once on that.

Mr. BRANCH said, it was not his intention to vote for the amendment reported by the Committee of the Whole. He had voted in favor of every liberal proposition for amending this objectionable section; but he did not consider the amendment proposed by the gentleman from Wilkes, as removing the stain from our Constitution, and would not, therefore, vote for it.—He would not flinch from a performance of his duty, whatever others might do. He would not throw out a *tub to the whale*. Striking out the word *Protestant*, and inserting *Christian*, would not cure the evil; for he believed that there were some people so ignorant, or so blinded by prejudice, as to believe that *Catholics* were not *Christians*. Met as we are, said Mr. B. to amend our Constitution, we ought to do it effectually, and not to accommodate the ill-founded prejudices of the people. Why, said he, are the Jews to be excluded from office? They were the favorite people of the Almighty. Our Saviour and his disciples were Jews; and are there not men among the Jews as talented, as virtuous, as well qualified to fill any office in our Government as any other citizen in our community. A Jew may be appointed to any office under the General Government. He may be raised to the Presidency of the United States. And why shall we refuse to admit him to any office under our Government? He was opposed to all religious tests for office, and should therefore vote against this amendment.

Mr. DANIEL wished to offer the Amendment which he had brought forward in Committee of the Whole, in order to obtain the Yeas and Nays upon it. It was in the following words:

"Resolved, That it is expedient to remove the disqualifications for office contained in the 52d Article, from all who do not deny the being of a God and an accountability to Him for the deeds done in the body."

The question on this amendment was taken, without debate, by Yeas and Nays, and negatived, 80 votes to 46.

[The Yeas and Nays on this question, were the same as on the last, except that Messrs. Bailey and Collins, who were absent on the last question, voted in the affirmative on this; and Messrs. Faison, and Ramsay of Pasquotank, who voted in the affirmative on the last question, voted in the negative on this.]

Mr. OUTLAW moved to strike out of the Section the following words: "Or who shall hold religious principles incompatible with the freedom and safety of the State."

This motion was negatived, 87 votes to 39.

[The Yeas and Nays were the same as on Mr. Edwards's proposition, except that Messrs. Andres, Owen, Hill, and Williams of Franklin, who voted in the affirmative on Mr. Edwards's proposition, voted in the negative on this; Messrs. Birchett, Ferebee, Gilliam, Hill and Holmes, who voted in the negative on Mr. Edwards's proposition, voted in the affirmative on this, and Messrs. Bailey, Collins and Seawell, absent on the first question, voted on this, the two first named in the affirmative, the last in the negative.]

The question now recurring on the adoption of the Amendment reported by the Committee of the Whole,

Mr. TOOMER rose and said:

Mr. PRESIDENT—I had not intended to join in this debate; it had been my fixed purpose not to participate in the discussion. Circumstances of very recent occurrence have changed that determination. I indulge no vain expectation of influencing the vote of any individual; nor would I desire such a result. But to omit assigning the reasons which will control my action, may expose me to the imputation of unworthily shrinking from legitimate responsibility. The reasons are few; can be briefly given; and will not consume much time.

All power in this country, is derived from the people. They have a right to establish such form of Government as they may think proper. The only restraint imposed on them, is contained in the Constitution of the United States, which "guarantees to each State a republican form of Government." The people may revise and amend their Constitution, impose such restrictions on themselves and their agents, as they please. From the extent of our territory, and the number of our population, it is highly inconvenient, if not entirely impracticable, for the people to assemble, in mass, in the exercise of this high power. They must, therefore, constitute agents to represent them, and to act for them. The representative when he has ascertained the sentiments of his constituents, should not arrogantly set up his own opinions in opposition to the public will, unless under the most imperious convictions of duty. Should he entertain any doubt

as to the course to be pursued, he should either surrender the trust, or obey the mandate of his principals.

Some gentlemen fastidiously disdain to consult the popular will, and indignantly protest against the right of instruction; others advocate the right of the people, and yield obedience to their will. In days gone by, this right of instruction was considered the touchstone of republicanism. It will not be *now* asserted, that the people are incapable of self-government, or are their own worst enemies, and we must interpose to save them from themselves. This would, certainly, be new doctrine from the high priests of democracy.

We are convened to consider *certain prescribed subjects*, and in our discretion to propose amendments to the existing Constitution. We are assembled by the order of the people; and our authority is derived from them; and our acts will be imperative until by them ratified. It could not be deemed a salutary exercise of discretion, to consume time and increase expenditure, in proposing amendments in opposition to the public will, and with a certainty of rejection. *Each county* in the State was authorised to elect two delegates to this Convention, to represent its peculiar interests, and to protect its particular rights.

When I entered this body, looked around, and saw the impress of time on the heads of so many of its members, I concluded that all subjects would be viewed "in the calm light of mild philosophy," and all questions would be dispassionately discussed. Judge, then, my surprise, when eloquence was exhibited, with all the ardor of youthful enthusiasm. Our understandings have been approached only through the avenues of feeling and of passion. It is not for me to complain; I have listened with rapturous delight; and have followed oratory through all its towering flights. But, it is time to descend from these lofty soarings, and to use the "language of soberness and of truth." Why these impassioned appeals to religious liberty, and the rights of conscience? The 19th section of the Bill of Rights, which is a part of the Constitution, declares "that all men have an unalienable right to worship Almighty God according to the dictates of their own conscience." That the right of worship cometh from above, and cannot be rightfully taken from man, is proclaimed as a fundamental principle of religious liberty, by this section of your organic law. It is also deeply engraven on the heart of man, by Him, "who touched Isaiah's hallowed lips with fire." But, "to make assurance doubly sure," the wise and sagacious framers of the Constitution incorporated therein its 34th section, which declares, "that there shall be no establishment of any one religious Church in this State in preference to any other; neither shall any person, on any pretence whatever, be compelled to attend any place of worship contrary to his own faith or judgment; nor be obliged to pay for the purchase of any

glebe, or the building of any house of worship, or for the maintenance of any ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform : but all persons shall be at liberty to exercise their own mode of worship." Thus has the ægis of your Constitution been twice raised, to shield from harm the rights of conscience. These provisions certainly secure the enjoyment of religious liberty. We have no authority to alter them ; there is no desire to effect any change and no attempt has been made. Persecution may light her torches, and bigotry may construct her racks, in foreign climes ; but *here*, the sacred rights of conscience are secured, and cannot be invaded. *Why*, then, all this declamation about freedom of conscience ? *Why*, these invocations to the shades of departed heroes and orators ? Is it because the people wish to retain *unaltered*, the 32d section of the Constitution ? It does not abridge the freedom of conscience. It does not interfere with any man's right to worship Almighty God, according to the dictates of his own conscience.

The 32d section of the Constitution declares, "that no person who shall deny the being of God, or the truth of the Protestant Religion, or the divine authority either of the Old or New Testament, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust, or profit, in the civil department within this State." It is said, this section establishes a religious test as a qualification for office. More than 58 years and a half have elapsed since the formation of the Constitution, and no individual has ever been excluded from any office, on account of his religious opinion ; although in this country no man attempts to disguise or conceal his *belief*. This section has always been deemed unsusceptible of practical application, and has been, by common consent, entirely inoperative. Such construction was coeval with the formation of the Constitution. We have no racks, nor tortures : neither inquisitions, nor inquisitorial spies. If latitudinarian indulgence in sceptical speculation, be deemed a crime, and should operate disqualification for office, no mode has been prescribed for the investigation of the offence, and no tribunal has been constituted for the conviction of the offender. It contains a mere declaration of principles, and not a proscription of individuals from the enjoyment of any privilege. Infidels and Jews have been members of each branch of the General Assembly ; and votaries of the Romish Church have filled the highest Executive, Legislative and Judicial stations in the State. Religious faith is a matter between man and his God : and if an individual wish to conceal it, can only be ascertained when the secrets of all hearts shall be known. Opinions are as fleeting as the shadow of a summer's cloud ; the belief of yesterday, is no evidence of its continuance to-day. No human forum

can decide, with reasonable certainty, as to the belief of an individual, in any given hour, concerning the truth of the Protestant Religion, or the divine authority of the Old or New Testament. The operations of the mind cannot be stayed—the intellect cannot be enchained—the author of our being,

“Finding nature fast in fate,
Left free the human will.”

Men eminent for learning, and preeminent by talents, have had alternate and successive hours of faith, and of scepticism. Who can penetrate the inmost recesses of man's bosom, and say what are its operations? The 19th section of the Bill of Rights and the 34th section of the Constitution, were certainly designed by its framers, to secure to every member of society, freedom of conscience, right of worship, and religious liberty. They, surely, could not have intended that such a construction should be given to the 32d section, as would be repugnant to the provisions of either of these other clauses. Indeed, it has been confidently declared in this debate, by some of the advocates of amendment, that the 32d section is unmeaning and inoperative.

Let it be conceded, for the purpose of argument, that the 32d section establishes a religious test as a qualification for office, and is susceptible of practical application; still it does not restrict freedom of conscience, nor does it interfere with religious liberty. The people are the fountain of power—all authority flows from them—office is in their gift—they create it, and can grant or withhold it at pleasure. Possessing the power of creating and granting, they may prescribe the terms and conditions of the grant. No man has a right to office; no person has a right to that which another can lawfully withhold. The qualification for office has nothing to do with any man's conscience; if he dislike the condition of the grant, he may decline its acceptance, and no violence is done to his conscience. In some men, this construction of the clause may check the unhallowed aspirations of unholy ambition; but does not interfere with the right of worship, or religious liberty. This consequence will not be deplored by the pious Christian, who too frequently sees that the pageantry of the world estranges the affections from higher objects. “Noble ends can be pursued by noble means,” without making the “pomp and circumstance” of office the reward of virtue. I cannot admit that office is the only incentive to patriotism, or the only prize of honor. Inculcate on the minds of the rising generation the sentiment, that office is the only reward of virtue and of honor, and office-holders and office-hunters will cover the country like a cloud, and blight the hopes of liberty. Should the Convention promulgate this sentiment, a population will arise, as desolating to our political institutions, as were the locusts, in the days of Pharaoh, to the fields of Egypt. The constant strife for place and for power,

between the sordid office-holder and the mercenary office-seeker, will be as fatal to the temple of liberty as was the vindictive vengeance of the Strong Man of old to the house of the Philistines. Let us avoid this error, and acknowledge the truth of the Republican sentiment, so congenial to our habits, so homogeneous with the principles of our government, and so well expressed by the Poet, that

“Honor and shame from no condition rise ;
Act well your part—there all the honor lies.”

We have heard much in this discussion about the “union of Church and State,” and about “civil and religious liberty going hand in hand.” These are fine themes for declamation, and eloquence has introduced them, on this occasion, with such plausibility as to induce some persons to believe that they are connected with the subject of debate. An impression is attempted to be made, by the use of these expressions, that our civil rights are unimpaired ; but that our religious rights are not equally unrestricted. These expressions have been so adroitly used without this body, that a prejudice has been excited, which has blinded the eye of reason, and much delusion has been the consequence. Let it still be conceded, for the sake of argument, that the 32d section establishes a religious test as a qualification for office, and is susceptible of practical application. In its operation, there will be no abridgement of the right of worship, no restriction of the freedom of conscience. In all well regulated Governments, there are some restrictions of natural rights—some restraints on civil liberty. There must be some surrender of individual rights for the support of society and the protection of its members.—To declare, that neither the Atheist nor the Deist shall hold office, does not abridge his right of worship in any manner, does not restrict the freedom of his conscience, nor does it limit his religious liberty ; he is still left free to worship, when, where or how he may please, or not to worship at all. This section does not prevent any man from manifesting his devotion according to the dictates of his own conscience. Without any infraction of this section, he may worship in the spirit of holiness at the altar of the living and eternal God ; or he may prostrate himself before the Idol of Juggernaut ; or he may present burnt-offerings in the temple of Dagon. It is said, with this construction of the clause, disability to hold office will be the penalty of latitudinarian indulgence in freedom of conscience ; but disability to hold office cannot be considered a violation of right, and if so, it is an infraction of a *civil right*, and not an interference with religious liberty. Our Constitution contains many infractions of civil rights, should exclusion from office be considered a violation of right. It prescribes age, property, and an oath, as qualifications for office ; but the beardless boy, the idle pauper, and even he whose tender conscience is religiously scrupulous of taking

an oath, have *here* no advocate. The wildest enthusiast for the natural rights of man—the most visionary friend of licentious liberty, makes no complaint of these restrictions; but should we enter the field of experiment and begin the work of innovation, let the operation be continued to the fullest extent. Disguise it as you will, this is not a contest for religious liberty; no man can say that he has been restricted in the right of worship, or that he has been persecuted for opinion's sake; but it is a struggle for civil power, by those who have been alarmed by a phantom, and ambition has nerved the assailants for the onset. Some political knight-errant, considering this section a stumbling block in the road to preferment, has conceived, in the spirit of Quixotism, that it conceals an ambushed foe; and rushing to the attack, with the ardor of chivalry, he finds, instead of an enemy, a flock of harmless sheep. But it is said, exclusion from office, for such a cause, may present a temptation to the practice of hypocrisy.—The conscience that will palter for the bauble of office, can feel no interest in the right of worship, cannot appreciate the value of religious liberty, and is unworthy the consideration of the organic law-maker.

In England, a peculiar form of the Christian Religion is established by law. All persons are compelled to contribute to the support of this particular Church—taxes are levied for its maintenance—no person can hold office who is not in communion with it—all officers must subscribe articles containing its tenets, and profess to believe them. The Prelates of the Church are, *ex officio*, members of Parliament, and exercise legislative power. The King is the head both of Church and State. *There* the established Church is supported by all the power and influence of the State—reason is not left free to combat its errors—and no other Church is allowed any opportunity for competition. *There* the Church and State are indentedified; and, with truth it is said, a union exists between Church and State. *Here*, no Church is established by law; no dignitaries of any Church are, *ex officio*, officers of the Government; no man is compelled to contribute to the support of any Church, nor to the maintenance of any Religious Institution; the State supports no Church, and levies no taxes for such purpose; human reason is free to combat the errors of every Church; all Churches have equal opportunities for competition; and Ministers of the Gospel, of every denomination, are expressly excluded from the exercise of legislative power. Microscopic must be the vision which can discover, in this country, any connection between Church and State. But it is confidently said by *some*, that the 32d section has produced a union between Church and State; *others* more cautiously say it has a tendency to produce this odious union. Whether it has formed the alliance, or has only a tendency to produce such result, "*non nostrum tantas componere lites.*" But if there be a union, let us inquire where

we can find the *bride*? Is *she* to be found in the Methodist, Baptist, Presbyterian, Episcopal, or Romish Church?

The Constitution of the State was framed by wise men; every clause bears testimony to their wisdom. The 32d Section could not have been designed to restrict the right of worship, nor to establish any particular form of religion, for such construction would make it repugnant to the 19th section of the Bill of Rights, and to the 34th section of the Constitution. But this 32d section has been much denounced, because some persons suppose that it establishes a religious test as a qualification for office, and thus excludes members of the Romish Church from power and from place. It is not pretended, that it has yet produced any mischief; it is admitted that it has been hitherto inoperative; no man has been excluded from office by this clause; but some allege it is susceptible of practical application, and dread its future enforcement. Catholics have occupied the highest Executive, Legislative, and Judicial stations in the State. Let us, then, dispassionately examine the section, and inquire, if susceptible of practical application, whom, under the strictest construction and most rigid enforcement, it can exclude. Certainly not any member of the Romish church. Which are the words, that are supposed to apply to the Catholic church? We are answered, the following, viz: "no person who shall deny the truth of the Protestant religion." The Apostolic creed is the creed of the Protestant churches. This Apostolic creed is incorporated in, and forms part of the creed of the Catholic church. The Catholic does not deny the truth of any portion of the Apostolic creed.—He cannot, therefore, deny the truth of the Protestant religion, for the Apostolic creed forms that religion. The Catholic says to the Protestant, your religion is true, so far as it goes; but it does not proceed far enough; your faith is too limited and contracted. The Protestant replies, *that* part of your religious faith which is based on the Apostolic creed is true, and rests on the rock of the Gospel; but your faith is too extended, and embraces that which is not evangelical. The Protestant denies the truth of a part of the Catholic religion; but not *e converso*; the Catholic does not deny the truth of the Protestant religion. The Protestant religion consists in the affirmation of truth; and not in the denial of error.

A Congress was convened in Halifax, in 1776, to form a Constitution for our State. The most popular man in the country, was Richard Caswell, who was President of that Congress, and the most influential member in the body. On the ratification of the Constitution, he signed it as presiding officer. Such was his influence in that body, that tradition says, he dictated the principles, if not the terms of the instrument. In early youth he had migrated to this Province from the Colony of Lord Baltimore; it will be recollected, that was a colony of Catholics. I have

been informed, he was the offspring of Catholic parents, and brought with him the religious faith of his ancestors. If this fact were well authenticated, it would conclusively shew that it was not the design of the framers of the Constitution, nor the purpose of the 32d Section, to exclude Catholics from office. But I am told this information is incorrect; that he was a member of the Episcopal church. Be it so; all concede that he was an ardent Whig—a devoted Republican—with expanded mind and liberal feelings—wielding public sentiment, and controlling the action of that Congress. His ancestors had found an asylum in a Catholic colony; it was the place of his birth; and he had a soul overflowing with generous gratitude. He aided in the formation of the Constitution, signed it, filled the highest office under it, and he fought in its support. These circumstances satisfy me, it was not the purpose of the framers of the Constitution to exclude Catholics from office. He was appointed Governor of the State in 1777, in 1778 and 1779; being the first Governor under our present Constitution. Thomas Burke was elected Governor in 1782, and again in 1783. He was of Irish descent. Glowing with the love of liberty, he rallied under the banners of Freedom, and fought the battles of the Revolution as an officer of this State. He publicly professed and openly avowed the Catholic faith.—He took the oaths of office, and swore to support, maintain and defend this Constitution. Here, then, we have a contemporary exposition of the 32d Section. Those who framed the Constitution, expounded it; and those who framed it, called a Catholic to administer it. Catholics have been members of each branch of our General Assembly; and although a seat in the Legislature may not be an office of profit, yet it is a place of trust.

This construction of the 32d Section has been settled by the decisions of every department of the Government, and has been sanctioned by the people. A distinguished member of this Convention, publicly professing and openly avowing the doctrines of the Catholic church, has been recently appointed by the General Assembly to one of the highest Judicial stations in the State.—Profoundly learned in the law, and eminently skilled in the solution of constitutional questions; of irreproachable character, and fastidiously scrupulous in matters of conscience; of retired habits, not seeking but declining office, he accepted the appointment in obedience to the public will, and took the oaths of office, swearing to support, maintain and defend this Constitution. The Executive of the State, also distinguished as a lawyer and a statesman, concurring in this construction, signs and issues the commission. The Supreme Court, the highest Judicial tribunal in the State, receives the commission—administers the oaths of office—and permits the officer to take his seat on the bench, and exercise the highest Judicial functions. If the incumbent were ineligible, the Constitution was violated in the appointment; the Court was under the most solemn obligation to support the Constitution, and

would have made known the violation, and not have sanctioned the infraction. The appointment was hailed by the people with acclamation, from the mountain to the coast. Who, then, can doubt the true construction of this section? If a Constitutional question can be settled, this should be at rest. It has received the concurrent sanction of the Legislative, Executive and Judicial departments of the Government, and has been confirmed by the people. Any alteration in the phraseology of this Section, will require new interpretation. Controversies will arise, and excitement will be the consequence. The people are already perplexed with fear of change, and deprecate any amendment. I would prefer the eradication of the whole section, *if in the sphere of our powers*, to the substitution of a single expression. My object is to preserve the repose of the country. The calm of freedom is the season of happiness; it is unlike the lethargy of despotism.—When real ills affect us—when oppression threatens—then rouse the storm, and revel in the tempest of liberty.

It is said, the *Quaker* is excluded by this clause from office, because he is conscientiously scrupulous of bearing arms, and may be considered as “holding religious principles incompatible with the freedom and safety of the State.” Who can fear that association, the doctrines of whose religion teach “*peace and good will*?” But, let it be recollected, the Quaker makes no complaint—desires no amendment of this section. The *friend* who is a member of the society, is prohibited by the rules of the association from holding office, either civil or military. The Quaker has no ambition to gratify—he denounces the pomp and vanity of the world. No section of the Constitution interrupteth his devotion, when the spirit moveth him. He asks not the tender mercies of those who would agitate the people and disturb the quiet of the country.

The 52d section merely impresses the truths of Christianity with the seal of the Constitution. It contains a mere declaration of principles—an annunciation of deeply interesting truths. Should so solemn an instrument not contain a recognition of the Christian religion? Not of our feelings towards any of its peculiar forms: but of the fundamental principles of Christianity. We live in a christian era—in a christian country—our people are christians—our institutions are all based on the rock of Christianity, and stand not on the sand of Infidelity. Should we not, on such an occasion, let “the divinity which stirs within us” speak? The truths of Christianity should be proclaimed on your mountains, and echoed through your valleys. But if the section be deemed *proscriptive*, whom does it exclude from office? Only the Infidel and Athiest. Will not a Christian people consider that Constitution sufficiently tolerant, which authorises only such exclusion? Beware of encouraging the growth of infidelity.

Time is a great innovator ; but it innovates slowly, and does not suddenly make war on the usages of society and the habits of the people. In projecting improvements, we must not be too impatient of existing institutions ; nor too eager to establish new ones. Innovation is not always reform. Experience should satisfy us that old laws are injurious, before we make any change. Here has been no mischief, and we require no remedy. I am invited to join in this crusade against public sentiment. I am urged to make the amendment, and then endeavor to convince the people of their error, in desiring to retain the section. This rash experiment savors too much of arrogance to captivate my affections.

The people are desirous to retain this *section* unaltered, because it is impolitic to make too many innovations on existing institutions at one time ; because, we have lived happily under it for 58 years ; because, it has produced no mischief ; because, it has never excluded any man from office ; because, it does not restrict freedom of conscience ; because, its construction is now settled, and controversy is at an end ; because, any change will require new interpretation, and will excite the people ; and because, it conducted us through the perils of the Revolution, and through the vicissitudes of peace and war :

“ It is better to bear the ills we have,
“ Than fly to others, that we know not of.”

Mr. FISHER said, he should vote for the amendment which was reported from the Committee of the Whole—namely, to strike out of the 32d Section of the Constitution the word *Protestant*, and instead thereof, insert the word *Christian*, so as to allow all who believe in the truth of the Christian Religion to hold civil office in the State.

In giving this vote, he was not influenced by the motives which the gentleman from Halifax (Mr. Branch) had so charitably attributed to the friends of the Amendment—that is, to throw the tub to the WHALE, as he is pleased to call the people ; nor yet for the accommodation of a certain individual, as he supposes—but, for reasons which he would undertake to state for himself.

Mr. F. said he had listened with very strict attention to all that had been said on this subject ; and, of all the debates he had ever witnessed, this had taken the widest range. As regards TIME, it had swept over eighteen centuries, and as regards SPACE, it had travelled round the globe ; its range has been circumscribed only by the limits set to human imagination. If a stranger, uninformed as to the true state of the question, had dropped in here, and listened attentively to all that has been said, he must have come to the conclusion, that we were debating whether we should, or not, establish a cruel TEST OATH to bind men's consciences ; nay, most likely, he would have come to the conclusion, that we are about to establish the ‘Holy Inquisition’

in North-Carolina; that we are now preparing the wheel, and the rack, the thumb screws, and the hot irons, for the punishment of recusant Papists; that the merciless *Auto de fe* itself, was to be kindled up in the midst of this Protestant community! Now, sir, is this so? Is it true, that we are about to establish a TEST OATH? Is it true, that we are about to commence the work of persecution against a class of people for conscience sake? No, sir, it is not so. If gentlemen will descend from the clouds in which they have been wandering; if, from that "march of mind" we have heard so much about, they will please to march back to the regions of common sense, they will see that their imaginations have run away with them. What is the true state of the question before us? In the Constitution which our Revolutionary forefathers established for North-Carolina, in the year 1776, there is a clause designated as the 32d Section, which provides, that no person who denies the being of God, or the truth of the Protestant Religion, or the divine authority of the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding civil office within this State. Ever since the adoption of the Constitution, some have thought that a part of this Article is illiberal, and ought to be stricken out, and others have thought that the whole of it ought to be expunged. In consequence of these opinions, the Legislature, in the Act under which this Convention meets, gave a discretionary power to the Convention "to amend the 32d Article of the Constitution;" and the only question now before us is—Shall we amend it, or shall we leave it as it is? Some wish to amend it, others wish to strike it out altogether, and others again wish to leave it as it is. For my part, said Mr. F. I am opposed to striking out the whole Article, but I wish to amend it. To amend is one thing—to strike out altogether, is another. We have a right to amend, but we have no power to destroy, and to strike out altogether would be to destroy.

Among the arguments advanced by those who are for striking out altogether, one is, that the 32d Article comes in direct conflict with the 19th Section of the Bill of Rights, which says—"That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience." Mr. F. said, for his part, he could not see this conflict—this incompatibility. The 19th Section of the Bill of Rights secured to all men the right of *worshipping* God according to the dictates of their own conscience; the 32d Article does not deny this right, nor take it away; it does not *prescribe* any mode of *worship*, or any set of religious principles—it only declares, that persons who deny the being of God, &c. shall not be capable of holding civil office within this State. Now, to show that the 32d Article conflicts with the 19th Section of the Bill of Rights, gentle-

men must first prove, that it is necessary for men to hold civil office before they can worship God according to the dictates of their own conscience. Will any one rise up here and say, that you must first be in possession of a civil office in North-Carolina, before you can exercise the freedom of conscience? No! no one will say so. The Turk, the Hindoo, the wild Savage of our own forests, can come among us and worship God according to the dictates of their consciences, and there is nothing in our Constitution or laws to harm them, or make them afraid; they can not only worship God according to the dictates of their own conscience, but they may acquire all the civil and political rights of native-born citizens—they are protected in their persons and property—they may vote for the law-makers, and if the people choose to vote for them, they may occupy seats in the Legislature, and become law-makers themselves. The 32d Article deprives them of none of these rights, either civil or religious, but it forbids them from holding civil office, *so long as they may deny the being of God*, or the other truths referred to in that Article. Surely, there is nothing so very cruel and proscriptive in this, as gentlemen would seem to make out. Mr. F. said, it appeared very strange to him, while gentlemen were so bitterly denouncing the 32d Article, that the 31st should have entirely escaped their notice. If the 32d Article excludes Atheists and Deists from civil office, does not the 31st go much farther—for it excludes Preachers of the Gospel, from seats in the Legislature? Will gentlemen contend that the doors to civil office shall be thrown open to Atheists and Deists, and that the Teachers of the Christian Religion shall be shut out from our Legislative Halls? If it is a violation of principle to exclude the Atheist and Deist from office, is it not equally so to exclude the Preacher of the Gospel from the Legislature, and from seats in the Council of State? But the sympathies of gentlemen seem to be with the one class, and not with the other. A Preacher of Mahomedanism may come among us, build his mosque, collect his congregation, and preach to them, and, if he has the civil qualifications, may be elected to, and take his seat in the Legislature, while the Teachers of our own Religion—of that Religion on which all our Institutions stand—are denied the like privilege! And yet, gentlemen who talk so much about liberality and the march of mind, have not uttered a single whisper against the 31st Article!

Mr. F. said, he would now state what to his mind was a very strong argument against *striking out* the 32d Section. If we take up the Constitution and examine it, we will find that there are four Articles in it, which have reference to the Christian Religion—that is, the 19th Section of the Bill of Rights, and the 31st, 32d and 34th Sections of the Constitution. **THREE** of these would seem rather to discountenance or throw aside the

Christian Religion, while the other one alone, namely, the 32d, seems to *recognize* it. Now sir, shall we, a Christian People, living in a Christian country, expunge from our Fundamental Law the only Article which recognizes Christianity, and leave remaining the three Articles which would seem to discountenance it, and actually lay its Teachers under civil disabilities?

If the 32d Article was expunged from the Constitution, and and the instrument then placed in the hands of an intelligent Turk, judging from it, what would he suppose our Religion to be? He would first read the 19th Article of the Bill of Rights, from which he would see that *all men*, Christians, Turks, and Jews, stand precisely on the same footing, and consequently, so far as this goes, in North-Carolina, the Christian has no advantage over the Turk. He would then come to the 31st Article, where he would see that Preachers of the Gospel are excluded from holding seats either in the Legislature or in the Council of State, but that Preachers of the Koran are not so forbidden; thus far, he would see that the Constitution is more favorable to Mahomedanism than to Christianity. He would next come to the 34th Article. If he should have sagacity enough to discover the wisdom of the prohibition in this Article, he would at the same time discover that a jealousy exists against 'Religious Churches.' Taken altogether, he will see nothing against the Religion of the Turk, but an evident expression against the Christian Religion; and so far as he can judge from what is before him, he must doubt whether we are Christians. But now lay before him the 32d Article, and all his doubts will vanish, for in this he will see a full recognition of Christianity. Then, I ask again, shall we expunge the only Article that recognizes our Religion, and leave standing those Articles which appear rather to discountenance it? If we had power to strike out the whole, he did not know that any great evils would follow from doing so, for he had no fears for the Christian Religion. It had spread to what it now is, against all opposition—it grew up in despite of oppression, and has flourished under persecutions. We have nothing to fear for its final triumphs; but we have no such powers, and as the subject stands balanced in the Constitution, as it now does, he was unwilling to expunge one side, and retain the other.

But, said Mr. F. let us take up the 32d Section itself, examine its parts, and see if it be so very objectionable as some would make it out to be. The first clause is in these words—"That no person who shall deny the being of God"—"shall be capable of holding any office, or place of trust or profit in the civil department within this Government." Now sir, is this so very wrong? Is it bigotry and intolerance in a Christian community, to exclude from civil office the man who denies the being of God?—the WRETCH who can look up at the glorious sun—gaze on the starry heavens—"the spacious firmament on high"—who can

look abroad on the face of nature, or turn his eyes in on his own bosom, and yet deny the being of God? If it is bigotry to withhold civil trust or moral confidence from such a wretch, then sir, for one, I am willing to be written down as a bigot. Some gentlemen, however, tell us that there are no such persons as *Atheists*, that is, no persons who deny the being of God. If they intend this assertion as an argument why the clause in question ought to be stricken out, then I meet it as follows: There are either such persons as *Atheists*, or there are not. If there be such persons, then they ought not to be trusted with office, or with any thing else; and, if there be no such persons, then this clause in the Constitution is at most but surplusage, and, as it takes up but little room, it may as well remain as an evidence of the honest precaution of our forefathers. But, sir, I differ with gentlemen, when they say there are no such persons as *Atheists*.—I cannot say, remarked Mr. F. that I know any such, but we have heard of them. We read that during the French Revolution, *Atheism* triumphed in all France. We read that the National Assembly expelled Christianity from the country, decreed the destruction of the Holy Bible, and extirpated it from the land. It is a known fact, when the British and Foreign Bible Society, at the close of the French Revolution, sought to restore the sacred volume to France by printing in London an edition in the French language, after a diligent search, not a single copy of the Bible could be found in all Paris. We also read, that the National Convention at one time, was composed wholly of *ATHEISTS*, who, to convince the world that they were *such*, passed a decree “*that death is an eternal sleep!*” The learned gentleman from Halifax (Mr. Daniel) says, however, that they were not *Atheists*, but *Saducees*. Mr. F. said, he should not dispute about names, though he would say, that this is the first time he had ever heard of *French Saducees*. Of this, he was confident, that the doctrines held by these French *Saducees*, were what we now call *Atheism*. The fact is, *Atheism* was openly professed and taught in France at that era. Lectures were delivered by the learned to prove the non-existence of God. We are told, that on a certain occasion, one of the celebrated Philosophers of that day mounted the public stage, with the red cap of liberty on his head, and delivered an oration before a large assemblage, to prove that there is no God. In the progress of his Address, he challenged DERRY himself, if he did exist, to manifest his power by striking the speaker dead on the spot. He was not stricken dead, and this was hailed as proof conclusive that there was no God. But, said Mr. F. we need not go to France to find *Atheists*—they exist in our own country. If newspaper accounts are to be credited, even at this day, public lectures are delivered in the City of New-York, to prove that there is no God. They are as yet few in number in our country, but we know not how

soon they may become numerous. We have seen them overrun France, a country where science and civilization flourished; and though there may be no danger of their overrunning our country, still, said Mr. F. I am for giving such wretches no encouragement, by permitting them to hold office or trust in a Christian community. If this be bigotry, I again say, that I am willing to be called a bigot.

The next clause of the 32d Section that I shall notice, said Mr. F. is that which excludes *Deists* from civil office. The celebrated Doctor Johnson, sometimes called the Giant of English Literature, had a great aversion to Deists. He had no faith in their honesty. He once remarked, if he should know of a Deist being at the same table with himself, he would caution the landlady to take care of her silver spoons. I do not think as badly of Deists as Doctor Johnson did, said Mr. F. for I believe there may be highly honorable and honest men of that description; but at the present time, he was not disposed to encourage Deism by expunging from the Constitution the limited disability imposed on its professors.

We live in a Christian country, our Laws and Institutions in general, are based on the maxims and principles of the Christian Religion, and why should we encourage those who ridicule and deny the truth of this Religion? What other system of Religion ever yet received by man, can compare with ours. Where has civil liberty, human happiness, the arts and sciences of civilization, flourished as in Christendom? In a temporal point of view alone, if we judge from its fruits, it is the best of all Religions; and, is it bigotry, then, to discountenance that class of men who deny this Religion, and would deprive the world of its manifold blessings? The wise and good of all civilized countries, since the commencement of the Christian era, have borne testimony to this Religion, and to him it appeared the height of folly and presumption for any one now, after the lapse of eighteen centuries, to deny "the divine authority" of the Holy Scriptures. Justly, indeed, do such sceptics merit the sarcasm of a celebrated British Poet on an analogous subject:

“ Shall little haughty ignorance pronounce
HIS works unwise, of which the smallest part
Exceeds the narrow vision of her mind?
As if upon a full proportion'd dome,
On swelling columns heav'd the pride of art!
A critic-fly, whose feeble ray scarce spreads
An inch around, with blind presumption bold,
Should dare to tax the structure of the whole!

It is true, there have been some learned men who professed Deism, but generally Deists are of a different description. Dr. Halley was an Astronomer of some note and a Deist. He once commenced ridiculing the Christian Religion in the presence of Sir Isaac Newton, the greatest of all Astronomers, and one of the

best of men, when he was promptly checked by the latter. "Dr. Halley," said Sir Isaac Newton, "when you speak of Astronomy, I hear you with pleasure, for you have studied that science, and understand it; but it gives me pain to hear you speak of the Christian system, which you never have studied; you know nothing about it. I have studied it, and know it to be true."

Shall we, said Mr. F. go out of our way, to expunge from the Constitution an Article which imposes a small disability on a class of men who would willingly subvert that Religion, pronounced to be true by the good and great of every land?—that Religion, on which all our civil institutions rest—the source of our blessings in this life and our happiness hereafter? If we were now adopting a Constitution in the first instance, then it might be a question whether this Article ought to be inserted.—But such is not the case. We have a Constitution before us, and are merely amending it. To strike out this Article about Deists, would be a sort of declaration in favor of Deism. For one, therefore, he should vote against striking out.

The next clause of the 32d Section is that which excludes from civil office such as "hold religious principles incompatible with the freedom and safety of the State." Certainly there cannot be much objection to this clause. No one can wish to see the enemies of civil liberty in possession of the offices of the State. The only objection that can possibly be raised to this clause, is, that it is not sufficiently definite. He thought, however, it never would be abused, and perhaps never called into action. As no inconvenience has been felt from it, and as the prejudices of the people are in favor of retaining it, he saw no necessity for expunging it.

The only remaining clause in the 32d Section, is that which excludes from Civil Office all who deny the truth of the *Protestant* Religion. This clause, it is contended by some, was intended to exclude Roman Catholics from civil appointments, while others believe that it does not exclude that class of men. One thing is certain, from the commencement of the Government to this day, it never has been brought to bear against the Catholics—for we have seen every grade of office in the State, from Governor down to Constable, at one time or other, filled by men of the Catholic persuasion. As, however, a difference of opinion seems now to exist on the subject, creating some doubt as to the true construction, we ought so to amend the Article as to make it more explicit. This, he thought, would be accomplished by striking out the word *Protestant*, and in place thereof, insert the word *Christian*. He believed that the people would be generally satisfied with this alteration, but any farther change would be going beyond what they expected, and would insure the rejection of all the Amendments. Some gentlemen consider this clause as a defect in the Constitution; nay, they say, a disgrace; but they cannot show where it has ever injured or disgraced

any individual. Yet, because they do not like its phraseology, they are willing to jeopard all our labors in this Convention and for years past in bringing it about, by striking out the whole clause and section. For himself, he was not willing to give up *practical good* through fears of *ideal evils*. If any evil exists, it will be remedied by the proposed change, and thus far he was willing to go; but he was not willing to hazard all the Amendments, by expunging the whole Section.

Mr. OUTLAW hoped he should be permitted to make a few remarks. The gentleman who had just taken his seat seemed to address this Convention, as if he were the Defender of the Faith of the Christian Religion; and that without his protection arm, it would be trodden under foot. For his part, he considered this a labor of supererogation: The Christian Religion is the work of God, and is therefore in no danger of giving way.

The argument brought forward by the gentleman from Rowan (Mr. Fisher) and others, that there is no difference between annexing qualifications for office, and declarations that men entertaining certain religious opinions shall not be capable of holding office, is mere sophistry. For in the one case, it is in the power of any man by industry and application, to attain office; but in the other, you render it impossible for a conscientious man, who refuses to give up his religious opinion, to enjoy the common right of others: for you require him either to believe what his conscience abhors and condemns, or to become an hypocrite and deny his faith. Is there, then, no difference between the two cases?

It is said, this 32d section was intended to restrain men of improper character from becoming officers of the Government; but is there no danger from it, of excluding the most pure and conscientious men? There certainly is danger, from the different expositions which have been given of the section by men learned in the law. Even if the word *Christian* be substituted for *Protestant*, he doubted whether the danger would be removed; for he said there was a numerous sect in some sections of this country called *Unitarians*, to whom a portion of the Calvinists deny the right of bearing the christian name. Might not there possibly be an union formed of different sects for the purpose of persecuting their brethren who might differ in opinion from them in certain particulars? It is, for instance, the opinion of some that the Quakers hold "religious principles incompatible with the freedom and safety of the State," as they restrain them from bearing arms even in time of war. What security have we, if this clause remains, that this inoffensive sect may not hereafter become objects of persecution? He thought we had none, and therefore moved to strike from the section, the words, "or who shall hold religious principles incompatible with the freedom and safety of the State."

This motion being put, was negatived, 57 votes to 39.

Mr. BRANCH assured the gentleman from Buncombe, that it would give him pleasure to travel in the same path with him in relation to this subject; but he could not conscientiously do so.

It is true that this 32d Article has lain dormant hitherto; but we have seen, from the excitement that has been made upon it in different sections of our country, that it is not dead, but sleepeth: and if we now enact it afresh, by refusing to rescind it, it may hereafter rise up in great strength.

The gentlemen from Cumberland and Rowan seem to think it was not intended to apply to Roman Catholics. He was of an entirely different opinion. He had no doubt it was intended to operate against that class of Christians. Nor did he think that one thousand men in this State could be found who entertained a different opinion.

He had voted for every proposition calculated to repeal this section, or to amend it so as to render it less objectionable; but, for the present proposition to strike out *one* word, to insert *another*, which did not, in his view, remove the great objection to it, he could not vote.

Mr. CARSON, from Burke, believed that no man was more honest in his course than the gentleman from Halifax. He, with that gentleman, had gone for the most liberal amendments to this section. We were in favor of a complete religious toleration.—We have been defeated. But because we cannot obtain all the alterations we desire in this obnoxious Article, shall we refuse that which is in our power to get? If we cannot make room for the Jew, if he be thought worthy for office, let us not refuse the privilege for Christians of every denomination. His friend from Halifax believes, that the Article, in its present form, excludes the Catholics. So he himself once thought, but he had changed his opinion. It would be well, however, to settle that opinion, by agreeing to the report of the Committee of the Whole.

The gentleman from Cumberland (Mr. Toomer) has said, this question, in relation to Catholics, is settled. But, said Mr. C. this Convention, by its action on the subject, has unsettled it. It is no longer a question at rest. The learned gentlemen from Halifax and Wake (Judges *Daniel* and *Searwell*) had both given it as their opinion that it was meant to exclude the Catholics. Though the section, therefore, might heretofore have been considered as a dead letter, it is now alive again, and must be treated as a living thing. He was willing, therefore, to take the proposed amendment, to strike out the word *Catholic* and insert the word *Christian* in its place.

Mr. C. was surprized to hear gentlemen speak of throwing an Ægis about the Religion of the country. Does the Religion of our Saviour (asked Mr. C.) need any aid of man to protect it? No; it stands on the broad basis of Eternal Truth—on the

Rock of Ages, and needs from us *belief* only. Why should the Protestants think ill of the Catholics because they differ from them in opinion? For when the Disciples of Jesus saw one casting out Devils in his name, they forbade him; but Jesus said, "forbid him not, for he that is not against us is for us."—Again: when Peter asked our Saviour "what should be done with this man?" (John) he replied, "if I will that he tarry till I come, what is that to thee? Follow thou me."

Mr. COLLINS said, having been engaged in attending to the business of a Committee this morning, he did not come into the Convention till late. He was surprised to hear the gentleman from Halifax (Mr. Branch) say, that because he could not obtain any amendment to the obnoxious section before the Convention, that would open the door of office to every worthy man, whatever might be his Religious opinions, he would not vote for expunging the word *Catholic*, and inserting in its place that of *Christian*. Mr. C. said, that he had all along voted with the gentleman from Halifax for the most liberal amendments to this section; but having been hitherto defeated, he would be willing to adopt the one now before the Convention, as it would at all events put the question to rest, as to *Catholics* and all other Christians.

Mr. MOREHEAD said, he should have remained silent on this subject, had it not been for the severe censures cast upon all who were in favor of retaining this 32d section in the Constitution. His feelings had been much excited, but he had endeavored to keep them down. He would, however, venture to make a few remarks on the subject.

Because we are in favor of retaining in the Constitution something like a Test for office, we are charged with bigotry and illiberality. In every Constitution, said he, certain qualifications are made necessary for office. In the amendments proposed by this Convention to the Constitution, certain qualifications are provided for the members of both Houses, and why not place some guard against inroads on the Religion of our country? We, the other day, refused to a class of freemen the right of voting, because the colour of their skin happened to differ from ours. Why was that done? Not because it was just, but because it was expedient. But when we prefer keeping a guard upon our Religious rights in the Constitution, we are called illiberal, bigots, fanatics, &c. Mr. M. could not say that he was a Christian, because he had made no profession to be such; but he was as free from bigotry or fanaticism as any one.

If no care is to be taken to preserve the sanctity of Religion in our country, why keep up the custom of administering oaths? Why administer an oath to an Atheist? He would not be bound by it. It had been said that there were no such beings in the country. He believed there were many such. He was there-

fore in favor of retainining the section in question. If any amendment were to be made to it, he should prefer that offered by the gentleman from Wilkes, and now under consideration. He agreed with the gentleman from Cumberland, (Mr. Toomer,) that it had been settled by the highest authority, that the 32d Article did not exclude Roman Catholics from office, since the General Assembly had recently selected a distinguished gentleman of that profession to fill one of the highest offices on our Judicial Bench. He had been admitted to his seat without a single whisper of objection from any quarter, but on the contrary, with the general approbation of the whole country. Mr. M. added that he wished every man in North Carolina could have heard the able defence and explanation which the gentleman from Craven (Mr. Gaston) had given to the Convention, of the Roman Catholic Religion. He wished it, because he was satisfied that it had been greatly misrepresented and misunderstood. He knew that it was generally believed in the part of the country in which he was best acquainted, that the Catholics here owed allegiance to the Pope. He was glad to hear this positively contradicted by the gentleman from Craven.

He would add another remark in relation to what had fallen from the gentleman from Buncombe some days ago, in relation to the late Rev. Dr. David Caldwell, of his county. Mr. M. said, there never was a truer Whig than Dr. Caldwell, nor one that had the good of his country more at heart. He mentioned several striking instances of his ardent zeal during the Revolutionary struggle, in evidence of this fact.

Mr. SWAIN said, he was far from saying any thing derogatory to the character of Dr. Caldwell. He believed him to have been every thing that the gentleman from Guilford had represented him to be. All that he had said referred to his zeal for propagating the Presbyterian doctrines in preference to any other.

The question was then taken on agreeing to the Resolution reported by the Committee of the Whole, and carried, 74 votes to 51, as follows:

YEAS—Messrs. Andres, Bonner, Bryan, Baxter, Brittain, Biggs, Bailey, Bunting, Birchett, Brodnax, Carson, of Burke, Crudup, Cathey, Cansler, Chalmers, Calvert, Carson, of Rutherford, Collins, Daniel, Dobson, Elliott, Edwards, Ferebee, Fisher, Franklin, Gaither, Gaston, of Craven, Gilliam, Gaston, of Hyde, Guinn, Gaines, Gary, Gray, Giles, Gudger, Hill, Hall, Hodges, Huggins, Harrington, Jervis, Jones, of Wilkes, Jacobs, King, Kelly, Macon, McMillan, McPherson, Marchant, Martin, Marsteller, Meares, Outlaw, Pipkin, Powell, of Robeson, Ruffin, Rayner, Ramsay, of Pasquotank, Roulhac, Swain, Sawyer, Skinner, Spaight, of Craven, Shipp, Saunders, Smith, of Yancy, Tayloe, Troy, White, Williams, of Pitt, Welch, Williams, of Franklin, Wellborn, Young.—74.

NAYS—Messrs. Averitt, Arrington, Bowers, Branch, Boddie, Cox, Cooper, Chambers, Dockery, Faison, Gatling, Graves, Grier, Hogan, Hargrave, Hussey, Hooker, Hutcheson, Halsey, Holmes, Jones, of Wake, Joiner, Lea, McQueen, Morris, Melchor, McDiarmid, Morehead, Montgomery, Moore, Norcom, Owen, Powell, of Columbus, Pearsall, Parker, Ramsay of Chatham, Styron, Sugg, Stallings, Speight of Greene,

Smith, of Orange, Seawell, Sherard, Shoher, Spruill, Toomer, Wilson, of Edgecomb, Wooten, Wilson, of Perquimons, Williams, of Person, Whitfield, Wilder—52.

The Resolution was then committed to a Committee to report an Article accordingly.

The Convention then adjourned.

THURSDAY, JULY 2, 1835.

After Prayer by the Rev. Mr. Jamieson,

On motion of Mr. WILSON, of Perquimons, the Convention resolved itself into a Committee of the Whole on the 12th Resolution, to enquire whether any, and what Amendments may be proper in relation to the election of Governor. Mr. Spaight, of Craven, in the Chair.

The Resolution having been read,

Mr. WILSON moved the following amendment: Strike out all after the word *Resolved*, and insert,

“That the Governor shall be chosen by the qualified voters for the Members of the House of Commons, at such times and places as Members of the General Assembly are elected. He shall hold his office for the term of two years from the time of his installation, and until another shall be elected and qualified; but he shall not be eligible more than four years in any term of six years.”

Mr. DANIEL moved to amend the amendment, by striking out all after the words “Resolved that,” and insert, “it is inexpedient to alter the mode of election of the Governor, except that he be elected biennially instead of annually, and that no person shall be eligible to hold that office more than four years in eight successive years.”

Mr. DANIEL observed, that the Governor had been elected by the Legislature for nearly sixty years, and he had heard of no complaint or inconvenience arising from this course, and was therefore opposed to the proposed change, and more especially as the people had not signified their wish for a change, either by petition to the Legislature, or by any movement by the Grand Juries of any of the Counties in the State—that if this plan was adopted, the People could not know the Candidates, but would have to take hear-say evidence of their merits.

He mentioned having lately seen a gentleman from Tennessee, where they had taken the power of electing their Governor from the Legislature and given it to the People, who said that two Candidates were travelling through the State on an electioneering campaign, at expense and trouble to themselves, and to the great annoyance of the People. He should be sorry to see Candidates thus canvassing for the office of Governor in this State, and therefore hoped the old mode would be continued, and more

especially as he thought the General Assembly, the members of which would have a better opportunity than the people at large of becoming acquainted with the merits of Candidates, would be likely to make the best choice.

Mr. COOPER was in favor of placing this election in the hands of the people, who, he had no doubt, would exercise it properly. And if they elected a good man, he would be satisfied, whether he came from the East or the West.

Mr. WILSON, of Perquimons, said, he wished to place this important election in the hands of the people, the fountain of all power, and that it might not be considered burdensome, he had proposed that the Governor should be elected for four years.—He was of opinion that if this power was placed in the hands of the people, there would be less chance for using electioneering arts to answer party purposes. And he preferred the term of four years to two, that the elections might not too frequently occur, so as to make them either inconvenient to the candidates or to the people.

Mr. GILES said, scarcely any subject could be discussed before this body without speaking of the love which gentlemen have for the people and the people's rights. This love was always manifested when elections were to be made. And he was one of those who wished, in all cases where they can conveniently exercise it, to place elections in the hands of the people. He was particularly in favor of this right being exercised by the people in the election of Members of the Legislature, and in the choice of the principal Executive Officer of the Government, but he did not wish them to have any thing to do with the Judiciary Department. An enlightened and independent Judiciary is all important, and he wished, therefore, to see them free from any influence that might bias their judgments.

He wished to see the election of the Governor in the hands of People; but he did not think he ought to be elected for so long a term as four years. He would, therefore, if the amendment of the gentleman from Halifax were not agreed to, and he trusted it would not be, move to amend the proposition of the gentleman from Perquimons, so as to make the election of Governor every two years.

The gentleman from Halifax had said, that he had heard of no dissatisfaction with the present mode of electing the Governor. This might have been owing to the subject not being brought before the people. It has now been made a topic of consideration, and the people have directed this Convention to decide on the expediency of electing the Governor by the People.

If this election be placed in the hands of the People, there will be more competition for the office than heretofore. The Candidates will go before the People, and each will discuss his course of policy before them, and they will be able to form an

opinion which will influence their choice. And in this way the moral and physical resources of the country will be developed.

But the gentleman from Halifax says, if the election be placed in the hands of the People they will have no means of knowing the Candidates, but will have to take hear-say information for their direction. He would inform that gentleman, that they would no longer be governed by hear-say evidence; that that time had gone by; they would in future see, and hear, and judge for themselves.

Mr. DANIEL said no man in this Convention had been more uniform in the support of democratic principles than himself, and he would go with the gentleman from Perquimons, and give the election of Governor to the people, if he thought they wished it, and could advantageously exercise it. When he heard their voice on this subject, he would obey it; but while he believed they did not wish it, and could not conveniently exercise it, he would not lay the burthen upon them.

He said there was a great difference between Mobocracy and Democracy. If the people were in a body to undertake to pass their own laws, this would be Mobocracy; but when they elect Representatives for the purpose of forming their laws, this is Democracy.

Look at the States of Pennsylvania, New York and Massachusetts, which elect their Governor by the People. Their whole States are broken up into Committees and Sub-Committees, of different parties, for the purpose of influencing their elections.

Is not this business already well managed in this State by placing the election in the hands of the General Assembly? If so, would it not be best to let *well enough* alone?

Mr. SPEIGHT, of Greene, did not consider our Government either a Mobocracy or Democracy. It consisted of a Legislative, Executive and Judiciary Department, all derived from the People, and accountable to them.

He agreed with gentlemen that the election of Sheriffs, Clerks and Constables ought not to have been given the people; but he thought it right the Governor as well as the Legislature ought to be elected by them. He believed that three fourths of the people were in favor of the change.

He asked how the election of Governor had been generally managed by the Legislature. No member knows till he gets to Raleigh who will be the candidates for that office. Some times, three or four candidates will be run, and as many days spent, without either obtaining a majority; and then, probably, by some arrangement among the members, one of the lowest candidates in the former ballottings, may be elected. All this sort of management would be avoided, if the election were given to the people. It would scarcely ever happen but some candidate would be elected on the first trial.

Mr. S. said he could not agree to the proposition of the gentleman from Halifax to elect the Governor for four years. He preferred the term of two years, which he understood the gentleman from Rowan (*Mr. Giles*) meant to propose at a proper time.

Mr. SKINNER said this question involved no important principle : it was a matter of expediency only. And he thought it most expedient that the election of Governor should continue to take place in the General Assembly, as it is at present, and has been for more than half a century. The Legislature could act more understandingly on the subject ; for, if it were given to the people, they would probably know nothing of the candidates, but what they might hear from others. Besides, by three or four counties combining together, a small minority of the people might impose a Governor on the majority, contrary to their wishes.

Mr. GILES observed, that the gentleman from Chowan was in favor of continuing to elect the Governor by the General Assembly, as at present, because they could act more understandingly on the subject than the people at large could do—that they would have a better knowledge of the Candidates. Mr. G. said, this was taking for granted what needed proof. It was also said, if the election be given to the people, they will have to call caucuses and hold consultations. This, said Mr. G. would be doing nothing more than the Legislature has to do, when they have any important election to make. As far as he knew, he believed the people were not very fond of Caucuses, and would be less likely to resort to them than the General Assembly.

The PRESIDENT (*Mr. Macon*) did not think it of much importance whether the Governor is elected by the Legislature or the People. He had but little power. If he had a negative power over the laws passed, as the Governors of many of the States have, he should say he ought to be elected by the People. Where the Governor has next to nothing to do, it is of little consequence who elects him. He thought he might as well be elected in the old way by the General Assembly. It is impossible in any Government to get clear of Caucusing. They will be held, either publicly or privately. In all public bodies, every one tries to get his friends elected. He heard a good deal said about consistency of conduct. We are, said he, none of us consistent. Consistency is perfection, and we are none of us perfect. It is the man that dignifies the office, and not the office the man. Dick Henderson, who died a Judge, and filled the office with dignity, dignified the office of a Constable, when he first entered on public life. Give a Sycophant an office, and he will still be a Sycophant, and give an honest man an office, and he will be an honest man still. He believed the officers in this Government did their duty as well as those in any of our neighboring

States. An officer here must act much out of the way, if he be not re-elected when his term is out.

MR. SAWYER was in favor of the amendment proposed by the gentleman from Halifax. He could see no good that could rise from placing the election of Governor in the hands of the People. It would become a question of East and West, and be productive of party rancor. Instead of the enquiry being, as it ought to be, 'is he capable, is he honest, is he fit for the office?' It would be, 'is he an Eastern or Western man?' It would also place the election in irresponsible hands. But were the election in the hands of the Legislature, voting *viva voce*, as the members of that body will hereafter do, it would be known how every man voted.

MR. WILSON replied to some remarks from the gentleman from Chowan, and defended his motion to place the election of Governor in the hands of the People.

MR. EDWARDS had no doubt of the people's right to elect the Governor, if they desired it; but they have also the right to say that this power shall be exercised by the General Assembly as heretofore. It is a duty which they may perform for themselves, or by their agents. The enquiry ought to be, which of the modes is best and most convenient. The election of Sheriffs and Clerks by the people, had been generally found to be inconvenient. He thought, however, there was more propriety in electing the Sheriffs by the people, than in electing the Governor in that way.—The people have little to do with the official acts of the Governor. Indeed his power is confined to a very narrow compass. If the Governor were to be elected by the people, the candidates for that office would be seen travelling through the country electioneering, which would put them to much expense, and the people to much trouble. Something had been said about caucuses. Meetings for consultation, he said, would be held in some form or other, whenever elections of important officers were on hand. He saw no harm in them. It was not because he thought the people incapable of self-government, that he objected to placing this election in their hands, but because they could not have so good an opportunity of knowing the fitness of candidates for the office as the Legislature.

MR. GASTON, of Craven, said, that it was almost useless to make any opposition to the proposed scheme, but under his convictions, he could not permit it to pass unopposed. It has enlisted in its support three descriptions of gentlemen in the Convention, who are actuated by very different views, and whose union is so powerful as to be almost irresistible. In the first place, there are those who consider this provision as an important extension of popular rights, and fancy themselves as thereby making a valuable concession to the people. He thought that this opinion had been taken up without much consideration. The

Governor of North-Carolina may be said to possess *no* political power. He has no share in the making of laws, he has no share in the appointment of officers. Except the right of granting reprieves and pardons, all that is required from him is, that he should be a gentleman in character and manners, and exercise a liberal hospitality. It was well for the State that it should be so. Executive patronage, find it where you will, is always an evil. In a Government like that of the Union, which comes in contact with foreign powers, in war and in negotiation, the Executive must be strong. It must be principally charged with the making of treaties; it must have an agency, direct or indirect, in the making of laws; it must have a command over the armed force of the country, and be invested with the general power of appointments. Executive influence and Executive patronage are there unavoidable, and must be submitted to as necessary evils. But in a Government, whose operations are confined to the internal concerns of its people, such influence and patronage are unnecessary, and are therefore gratuitous evils. Now, what mighty boon is it to the people of North-Carolina, to impose upon them the duty of selecting the gentleman who is to bear the honorable appellation of Governor? What are the responsibilities which he owes to them, that render it necessary that he should owe his appointment directly to them? What abuse of power, what disregard of popular rights, what oppression have they to dread from this officer, which render it necessary that he should be chosen by popular suffrage? The people are to be called out from the mountains to the sea-board—sixty thousand men—to vote for a Governor, without power or influence; to fifty-nine thousand of whom, the candidates for their suffrages, are personally, altogether unknown. Instead of conceding to them a valuable boon, you impose upon them an onerous duty, in the discharge of which, they are obliged to act upon trust, and not upon their own judgment. To conscientious men, the obligation of acting, where the means of acting correctly are not possessed, is always unpleasant. In the State Legislature, whenever he had been called upon to vote in the appointment of Field Officers of Militia, when he personally knew none of the candidates, he always felt that he was performing a ridiculous part.

There was another portion of the Convention who supported this proposition, because it would free the State from inconveniences which resulted from the present mode of appointment.—The gentlemen from Perquimons and Rowan had objected, that the appointment of the Governor by the Legislature produced cabals and intrigues in that body. Before we make a change on that account, let us have a reasonable assurance that the evil will be thereby removed. He verily believed, that a popular election would not remove this evil, but would introduce others of an aggravated character. It is not to be supposed, that candidates

for the office of Governor will start up spontaneously in every county. No candidate can expect to succeed without some arrangement for general support throughout the State. They will be brought before the people under some imposing form of nomination, and upon pledges, direct or indirect, of general concert of action. They will be brought forward in caucuses of the members of the State Legislature, coming from various parts of the State, and men of influence at home. The members of the State Legislature can most conveniently make the nomination, and most efficiently combine to procure for it the sanction of the people. The ratification by the people will be little less than form—the nomination will be the one thing needful. We shall thus still have these Legislative cabals and intrigues; they may be carried on more covertly, more insidiously, but for that very reason, they will be more corrupt and pernicious. When the Legislature actually elects the Governor, the responsibility of a bad choice, falls directly upon them; but when they seem only to recommend, they accomplish in fact, what is denied to them in form, and accomplish it without responsibility.

When large bodies of men are drawn out to act for some common purpose, their action cannot be effectual without organization and discipline. Ten men may perform a common work without formal regulations, but ten thousand cannot act without regular leaders and subordination. Establish the scheme of an election of Governor by General Ticket, and we shall soon have our Grand Central Committees, District Committees, County Committees, and Captain's Company Committees, and all that vile machinery by which the freemen of the State are drilled into the slaves of factious Chieftains—by which they are deluded into the belief, that they are fighting for themselves, when in truth, they are only quarrelling for the selfish interests of designing and unprincipled men. Establish this scheme, and you will greatly increase the violence and bitterness of faction. All the freemen of the State will be brought out, every two years, into a general array against each other. The larger the multitude in which any excitement prevails, the more violent the passions become, by contagious sympathy. In our peaceable State heretofore, we have fortunately had nothing to bring out one half the State against the other, except in the election of President. This was occasioned by the General Ticket system, which, although good men of all parties admitted to be an evil, the majority of the Legislature supposed it necessary to secure to the State its due weight in the choice of that high officer. This State has been less cursed with the fury of party rage than any other in the Confederacy, because, with this exception, parties have never been permitted with us to come out *en masse* against each other. But we are tired of this blessing, we are weary of tranquility and moderation, and therefore adventure upon this rash innovation.

Elect the Governor by the people, and then there will be a disposition to confer upon this object of popular choice, influence and patronage. Already do we hear it said, that the Governor of North-Carolina ought to be a GREAT Officer. When he shall be regarded as the direct Representative of the majority of the People, the temptations so to consider him, can little be resisted. There will be annexed to his office, from time to time, all those appendages of power which his party will be able to give, and which, in truth, he will but hold as a trustee for his party. We must be fashionable forsooth; we must have a splendid Executive, although this splendor is to be obtained at the expense of public purity and public happiness.

The election of the Governor by General Ticket, is at variance with the principles upon which we have attempted to adjust the balance of power between the different sections of the State. The election will be not according to the principle of Federal numbers, the basis of power in the House of Commons; not according to Taxation, the ratio of power in the Senate; but solely and exclusively by the free white population. He did hope that gentlemen from the West were too magnanimous to advocate it, because of this deviation from the principles of the great compromise; and he trusted that gentlemen from the East would see their way clear before they assented to this sacrifice of the fair influence of their immediate constituents.

But there was yet another class of the Convention who supported the proposition. They did not regard it as granting any valuable privilege to the people nor as a practical improvement upon our institutions, but they thought it would take with the people and get votes for the Amended Constitution. He despaired to be able to reason with these gentlemen to any advantage. He felt distressed when he had to encounter suggestions of this sort. No marked change in the fundamental Institutions of the country could be made, without important consequences for good or for evil. The only legitimate inquiry is, will these consequences be beneficial, or will they be injurious to the people? This inquiry should be ever kept in sight. The moment it is departed from, because of some supposed temporary expediency, there is no safe rule by which to be guided. If the people are capable of self-government, our proposed amendments must be addressed to their sound sense, to their sober deliberate judgment; not to their supposed folly, caprice, or prejudices. The people should be treated as men, not as children. If the prescribed medicine be salutary, they will take it, because it is salutary; if it be not, let us not suppose that the good creatures will swallow it without a struggle, because a little honey has been spread upon its surface. Mr. Gaston concluded with the declaration, that after every view that he had been able to take of the proposition, he considered it delusive and pernicious, and under that impression, he was decidedly opposed to its adoption.

Mr. WELBORN asked how it was that our State had been called *Poor old North Carolina*. It was not because she was really poor, nor because she did not possess fertile land and well disposed citizens ; but because she had done nothing to improve her advantages. He believed the State to be susceptible of great improvements, and that the time is near at hand when the People will unite in exertions to make them. A beginning is all that is wanted—once commenced, the work will go-ahead. With respect to the question before the Committee, he was decidedly in favor of placing the election of Governor in the hands of the people.

Mr. CARSON felt indifferent as to the decision of this question ; but when he first entered on public life, he had expressed himself in favor of giving the election of Governor to the People, and therefore felt compelled to vote in that way.

The question was taken on Mr. Daniel's amendment, and negatived, 46 only voting in its favor.

Mr. GILES then offered his amendment to the proposition of the gentleman from Perquimons to strike out *four years* and insert *two years* as the term of each election for Governor, which was carried, 65 members voting in favor of it.

The Committee then rose and reported the following Resolution to the Convention :

“The Governor shall be chosen by the qualified voters for the Members of the House of Commons, at such times and places as Members of the General Assembly are elected—he shall hold his office for the term of *two years* from the time of his *installation*, and until another Governor shall be elected and qualified—but he shall not be eligible more than four years in any term of six years.”

This Resolution was passed, 74 to 44. The Yeas and Nays were as follows :

YEAS.—Messrs. Andres, Arrington, Bowers, Baxter, Bonner, Brittain, Biggs, Birchett, Carson, of Burke, Cathey, Cox, Cansler, Cooper, Chalmers, Chambers, Dobson, Montgomery, Elliot, Fisher, Faison, Franklin, Gaither, Graves, Gilliam, Guinn, Grier, Gaines, Giles, Gudger, Hill, Hall, Hogan, Hargrave, Hooker, Huggins, Harrington, Holmes, Jones, of Wake, Jervis, Kelly, Lea, McQueen, Morris, M'Millan, Melchor, M'Diarmid, Morehead, Martin, Marsteller, Moore, Owen, Powell, of Columbus, Parker, Powell, of Robeson, Ramsay, of Chatham, Ruffin, Styron, Spaight, of Craven, Stallings, Speight, of Greene, Shipp, Saunders, Sherrard, Smith, of Yancy, Shober, White, Wilson, of Edgecomb, Williams, of Franklin, Wooten, Wilson, of Perquimons, Williams, of Person, Welborn, Wilder, Whitfield.

NAYS.—Messrs. Averitt, Bryan, Branch, Bailey, Bunting, Brodnax, Boddie, Crudup, Calvert, Collins, Daniel, Edwards, Ferebee, Gatling, Gaston, of Craven, Gaston, of Hyde, Gary, Gray, Hussey, Hodges, Howard, Halsey, Jones, of Wilkes, Jeiner, King, Macon, McPherson, Marchant, Norcom, Outlaw, Pipkin, Rayner, Ramzay, of Pasquotank, Sawyer, Skinner, Sugg, Seawell, Spruill, Tayloe, Troy, Toomer, Welch, Williams, of Pitt, Young.

The Convention then adjourned till to-morrow.

FRIDAY, JULY 3, 1836.

After Prayer by the Rev. Dr. McPheeters;

Mr. BIGGS said, that from an examination of the Convention Act he found that this body is directed, in the event of agreeing to *biennial* sessions of the Legislature, to provide also for the biennial instead of triennial election of Secretary of State. There were other Officers, however, the election of which it was equally necessary should be changed from *once* a year to once in every *two* years. He therefore submitted a Resolution to instruct the Committee to whom this matter was referred, to provide also for the biennial election of Public Treasurer, Comptroller and Councillors of State. The Resolution was adopted.

The Convention then resolved itself into a Committee of the whole, Mr. *Shober* in the Chair, on the Report of the Sub-Committee of twenty-six, in relation to the formation of the Senatorial Districts, and the appointment of Members of the House of Commons.

The report having been read, Mr. *Collins*, Chairman of the Committee, explained the principles which had governed them in preparing the Report.

Mr. BOWERS moved to amend the Report by taking one Member from Surry and giving it to Ashe, so as to entitle Surry to 2 and Ashe to 2, instead of giving 1 to the latter and 3 to the former, as reported. He said that this arrangement would be agreeable to the Delegates from Surry.

Mr. COLLINS, as Chairman, objected to the amendment. He said the Committee had been governed by principle in making their arrangement, and it would not do to derange it, merely to gratify the individual wishes of gentlemen.

Mr. MOREHEAD was desirous of accommodating the gentleman from Ashe, but did not believe the Convention had a right to depart from the rule which they had prescribed, and which governed the Committee in making their Report—a Report which was the work of great labor, and reflected credit on the Sub-Committee which prepared it.

Mr. JACOBS also opposed the amendment. He thought it would be an evasion of the obligation imposed by the Convention Act, to adopt it.

Mr. WILLIAMS, of Franklin, said, as a member of the Committee from which the Report emanated, he should go against any interference with their arrangement of Representation. In carrying out the principle laid down and acted upon, some counties must necessarily suffer; but it was unavoidable, where such diversified interests are to be consulted.

Mr. BOWERS replied. He did not wish to be understood as complaining of the operation of the rule, but his amendment was

pressed on the score of mutual consent on the part of the counties interested. Owing to the peculiar situation of Surry, she was not only entitled to 3 Commoners, but to a Senator, although her amount of taxation fell short of the ratio. Under these circumstances, it was but fair to transfer 1 Commoner to Ashe.

Mr. GUINN also opposed the motion, on the ground that having adopted a fixed rule, it should be carried out in strict faith.

The amendment offered by Mr. *Bowers* was negatived.

Mr. GAITHER moved to amend the Report, by taking a member from Yancy and giving it to Burke county, and went into a statement to show that the amendment was founded in equity, and that Burke was clearly entitled to it on the ground of having the largest fraction.

Mr. CARSON also enforced the reasonableness of the claim on the part of Burke, and stated that the Delegates from the two counties interested had had a friendly meeting and investigated the matter, and the conclusion was arrived at, that Burke was fairly entitled.

Mr. SMITH, of Yancy, confirmed this statement.

Mr. MELCHOR strenuously opposed the amendment, and claimed the fractional member for Cabarrus, on the ground that her fraction was certain, but that it was impossible to tell, with certainty, what were the fractions of either Burke or Yancy.

The amendment was agreed to.

Mr. F. J. HILL proposed an amendment somewhat in detail, the object of which however was to transfer the Senator from Moore county to Bladen. He went into a statement of the reasons which led him to offer this amendment. He expressed his regret that a sense of duty compelled him to propose it, aware as he was of the very great labor which the Committee had undergone in the preparation of the Report, and the fidelity with which they had discharged their duty; but the obvious injustice which was done to Bladen county, compelled him to speak out.

Mr. COLLINS explained and justified the arrangement.

Messrs. *Kelly* and *Bunting* opposed the amendment, and stated their reasons.

Mr. OWEN spoke in favor of the amendment, and represented the peculiar hardship under which Bladen labored, from the reported scheme. Located between two counties, paying probably the largest tax in in the State, Cumberland and New Hanover, the excess of neither was given to to her, though justly entitled to it, but was transferred to other counties.

The amendment was negatived.

Mr. MELCHOR then moved to detach Montgomery from the 33d Senatorial District, and add it to the 34th, so as to form a District out of Moore and Montgomery and entitle Cabarrus to a Senator by adding the excesss from other counties.

This amendment was earnestly advocated by Mr. *Gaines*, and warmly opposed by Mr. *Kelly*. Mr. K. said there was no identity of feeling between the people of Moore and Montgomery. There were hardly 12 persons in the one county that knew an equal number in the other. Montgomery and Cabarrus were properly united in a District—it was Dutch to Dutch—but if Moore and Montgomery were united, it would be Dutch to Scotch.

Mr. *GAINES* rejoined at some length, and demonstrated so clearly the propriety of Mr. *Melchor's* amendment, that it was carried, 58 to 40.

Mr. *KELLY* moved further to amend the Report, by detaching Moore from the 34th District—the effect of which would be to deprive Sampson of a Senator and give one to Moore.

This amendment was opposed by Messrs. *MEARES* and *COLLINS*, and advocated by Mr. *KELLY*. It was lost.

Mr. *BAILEY* moved to amend the Report further, by taking Gates from the 3d District and adding it to the 6th, and Chowan from the 3d and adding it to the 1st District—the effect would be to give Pasquotank a Senator. In the reported scheme, Pasquotank and Perquimons constitute a District.

This amendment was advocated by Messrs. *Bailey* and *Ramsay*, and opposed by Messrs. *Wilson* and *Rayner*.

In the course of his remarks, Mr. W. said, that as Pasquotank had applied for a divorce from Perquimons, he was willing the tie which bound them should be severed. He, however, wished to know from the Chair, whether it would be in order to submit a Resolution allowing Perquimons to set up for herself—to withdraw from any participation in State honors, and place herself under the protection of the County Court. He was certain it would be better for her.

Mr. *SAWYER* said, he had no objection to Perquimons withdrawing, if he was certain she would not establish a kingly government.

Mr. *WILSON* replied, if she did, she would not send to Chowan for a crowned head.

Mr. *BAILEY's* amendment was negatived.

Mr. *JACOBS* moved further to amend the Report, by excepting the excess in the Counties of Currituck, Camden, Pasquotank, Perquimons, Chowan and Gates, which excess shall form a District to elect an additional Member in the House of Commons, to be voted for by said counties.

The amendment was negatived.

On motion of Mr. *MOREHEAD*, the Committee then rose and reported the Report to the Convention.

The Convention then proceeded to consider the amendments separately, and agreed to the whole of them, as made in Committee; not without an effort, however, on the part of Messrs. *McDiarmid* and *Kelly*, to reverse the decision of the Committee

in regard to the detaching of Moore from Cabarrus; and on the part of Messrs. *Sawyer* and *Jacocks*, to get the arrangement moved by the latter adopted.

Mr. KELLY made also an unsuccessful attempt so to amend the Report, as that the excess of Federal numbers in Moore, Cumberland and Montgomery, might be retained in those counties, and form a District to elect a Member to the House of Commons.

The Report having been concurred in, Mr. GILES moved its reference to a Select Committee, to draw the necessary Articles for carrying into effect the provisions of the Report. Agreed to.

Mr. SHOBER moved, that the Convention take a recess until four o'clock.

Mr. SPRUILL called up the Resolution, laid on the table a day or two since, providing for Evening Sessions. The same having been read, Mr. S. moved to amend it, by adding the words "after Saturday next;" which was accepted by Mr. *Dockery*, the gentleman who had introduced it, as a part of his Resolution. The Resolution was adopted.

Mr. MEARES then moved, that the Convention adjourn until Monday morning, 9 o'clock. He did not regard the 4th of July either as a Judicial or Legislative day.

Mr. BRANCH objected. He did not see how we could be better employed on the 4th of July, than in making safe-guards for the Liberty which was accomplished on that day.

The motion was negatived, by Ayes and Noes, 79 to 33; and the Convention adjourned.

SATURDAY, JULY 4, 1835.

Mr. CARSON, of Burke, from the Committee on the subject, reported the 32d section of the Constitution, as amended—the word "*Protestant*" stricken out, and the word "*Christian*" inserted, in accordance with the decision of the Convention.

Mr. COLLINS moved to adjourn; on which question, Mr. Cooper called for the Ayes and Noes. Negatived—Ayes 29, Noes 75.

On motion of Mr. BRANCH, the Convention took up for consideration the Report of the Committee on the subject of the *Viva Voce* vote.

Mr. COLLINS remarked, that this was an important question, and would require more deliberation than he thought the Convention could now give it; he therefore moved to adjourn: Negatived, 33 to 74.

Mr. J. WILSON moved to adjourn; not carried; Ayes 44, noes 34.

Mr. COOPER moved to adjourn; negatived, 45 to 57.

Mr. MOREHEAD suggested to the President the propriety of sending for and bringing into the Convention the officer commanding a Volunteer Militia Company which had just passed along the street near their building, to answer for disturbing their proceedings.

Mr. CARSON, of Burke, spoke with promptness and energy against any such procedure on *this* day; and moved that the Declaration of Independence be read, and that the Convention then adjourn. This motion was objected to as out of order.

Mr. BRANCH then moved to adjourn; which was carried, ayes 59, noes 46.

MONDAY, JULY 6, 1835.

After Prayer by the Rev. Dr. McPheeters,

On motion of Mr. WILLIAMS, of Franklin, the Convention resolved itself into a Committee of the Whole on the Report of the Select Committee, as to the mode in which future amendments shall be made to the Constitution; Mr. *Swain* in the Chair.

The Report is as follows:

“That whenever a majority of the whole number of each House of the General Assembly, shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments to the people, and the Governor shall, by proclamation, lay the same before the people six months before the ensuing election for Members of the General Assembly; and if the two Houses of the General Assembly, thus elected, shall approve, as in the first instance, of the amendments proposed, the same shall be submitted to the people, for their ratification or rejection, and if ratified by a majority, shall become a part of the Constitution.”

Mr. MEARES said, he was in the minority of the Committee who made the above Report; and should now move to amend it, by striking out all after the word “that,” and substitute the following:

“No part of the Constitution shall be altered, unless a bill to alter the same shall have been read three times in each House of the General Assembly, and agreed to by three-fifths of the whole number of members of each House respectively: Nor shall any alteration take place until the said bill, so agreed to, be published six months previous to a new election of members to the General Assembly; and if the alteration proposed by the General Assembly shall be agreed to in the first session thereafter by two-thirds of the whole representation in each House of the General Assembly, after the same shall have been read three times, on three several days in each House, then the said General Assembly shall establish rules and regulations whereby said amendments may be submitted to the qua-

lified voters for the House of Commons throughout the State; and if, on comparing the votes given in the whole State, it shall appear that a majority thereof have approved said amendments, then, and not otherwise, the same shall become a part of the Constitution."

Mr. SHOBER said, he was also a member of the majority of the Committee who made this Report, and would state his views on the subject. He was in favor of the Report generally, though he wished to introduce an Amendment to it. He was of opinion, that it ought not to be made too easy to amend the Constitution, nor too difficult. If a majority of the Legislature might propose Amendments, and send them out to the people for their concurrence, he should be opposed to it; but this is not the plan proposed. Two actions of the General Assembly are required, and two actions of the people. The General Assembly is to propose Amendments—the Governor is to make Proclamation that these Amendments are proposed. The next action is the election of Members of Assembly, which, if the people approve of the proposed Amendments, will be favorable, and if they disapprove of them, will be unfavorable to their adoption. If the Amendments are approved by the second Legislature, they are then to be submitted to the people for ratification. The length of time which would elapse between the first proposition of them and their ratification, would be sufficient to guard against any excitement, or improper feeling. Having biennial sessions, two years will elapse before the first action can be had on the subject; after that the people will have to act indirectly and the Legislature affirmatively, and then the people are to ratify. Adopt a plan by which it shall be necessary that two-thirds or three-fifths of the Legislature shall pass upon the subject, and no Amendments to the Constitution would ever be made. It was known with what difficulty the present Convention had been called. It may happen, that some of the Amendments at present adopted, may be found to operate injuriously on some portion of the State, and it may be desirable to make small Amendments to rectify the operation.—But if two-thirds or three-fifths of the Legislature be required to act on the subject, he should despair of effecting any such Amendments, however desirable they might be.

Mr. MEARES thought, that when the law of the land was solemnly fixed, it ought not to be disturbed for light causes, and he was unwilling, therefore, to leave it in the power of a bare majority of the Legislature to bring about another Convention. He thought there would be more safety in the provision which he offered; and if there were any real necessity for a Convention at any time, there would be found no difficulty in obtaining it.

Mr. BRANCH was opposed to the Report, and in favor of the Amendment offered by the gentleman from Sampson. He knew that the principle of the vote of a majority is a favorite one; but in some cases, it is found insufficient and deceptive. In small

communities, where there is no great diversity of interests, the majority may safely rule, but in an extensive country like ours, where the soil and climate is so various, and the interests of the people so distinct, other guards are necessary.

Mr. B. referred to the present state of the Union, and asked if the principle of a majority was sufficient to curtail Federal power, as now exercised? He said it was by no means sufficient. The majority ought not to rule in every instance. There are few States in the Union, where the fundamental rules of Government can be changed by a bare majority. Most of the States require a vote of two-thirds. The constitutional law ought not to be too easily affected. He would not give a stiver for a Constitution that could be altered by the bare will of a majority.—He would rather depend on the Legislature altogether than on such a Constitution. North Carolina has the character abroad of being a steady, consistent State; he was, therefore, unwilling to subject our fundamental rules to the change of every breeze that blows. He was not certain that the Amendments made to the Constitution by this Convention will be beneficial to the State. While he admitted there were blemishes in the present instrument, he was not sure that this Convention will correct them to any considerable extent, and the repose of the State will be considerably disturbed by the operation. We shall have given the people a little more power, with which they may be pleased, but he doubted whether much public good would be effected.

Mr. DANIEL did not wish Amendments to the Constitution to be too easily obtained; but he doubted whether the proposed Amendment did not throw too many obstructions in the way.

Mr. GAITHER was in favor of the Report of the Committee. He was one of those who thought that the majority ought in every case to rule. The great defect in the present Constitution is, that it contains no mode for amending the instrument. It is true that the Constitution ought not to be too frequently amended; but too great difficulties ought not to be placed in the way of obtaining Amendments, when necessary. It is a fact, well known, that a portion of this State has been struggling for the last twenty or thirty years, to call the present Convention. With a majority of 18,000 free white citizens, our object, till now, could not be effected.

The plain proposition of the Report, said Mr. G. is, that when a majority of the Legislature are of opinion that an Amendment is necessary to be made, the Governor is to proclaim the fact, the people then elect another Legislature, and if this body concur in the opinion, the Amendment is then submitted to the people for their ratification.

He could not say, with the gentlemen from Halifax, (Mr. Branch,) that he would rather have no Constitution, than that it should be subject to Amendments in the way proposed by the Report before the Committee. Nor was he of opinion with that

gentleman, that the Amendments we were about to make to the Constitution, were of doubtful value. Was it nothing, he asked, to have equalized the Representation—to have given the election of the Governor to the People—to have obliterated the lines of East and West? He trusted, that the people would be pleased with these Amendments, and that they would prove of real service to the State.

He hoped the Amendment proposed by the gentleman from Sampson, as it threw almost insuperable difficulties in the way of future Amendments of the Constitution, would not be adopted.

Mr. GASTON, of Craven, wished it was in his power to do justice to his feelings on this subject, but he felt much indisposed, and the state of his health would not allow him to do so.

This was one of the most important questions that had come before the Convention; for, whatever benefits we may have promised ourselves from our labors in this body, in laying the foundations of our Constitution on equitable and fair principles, if we put it in the power of bare legislative majorities to upset them all, then indeed have we toiled in vain.

He was not only surprized, but filled with fearful apprehensions. It appears as if this body were going rashly from one extreme to another. Because difficulty has been experienced in calling a Convention to amend our Constitution, we are determined to have a perpetually changing Constitution.

What is the proposition recommended in the Report? That two succeeding Legislatures, by a bare majority of votes, may alter any part of the present Constitution, or any part of the Amendments which may be adopted by this Convention, or any principle in the Bill of Rights, consecrated for the security of our lives, liberty and property.

What reason is given for this proceeding? That a majority ought to govern. Let us not be deceived by idle generalities. In what sense ought majorities to govern? That the deliberate will of the People ought ultimately to prevail, no one will deny; but that the temporary will of a majority, which may be produced by the effervescence of the moment, ought to do *whatever it pleases*—set up and put down Constitutions from day to day—no man can be so extravagant as to desire.

If nothing more is needed for the purposes of Government than this brief maxim, let the majority govern, what becomes of all our checks on majorities? Why have *two* branches in our Legislature? Why judicial establishments? Why trial by Jury? If we are to adopt this unfettered principle, why any of these establishments?

He would rather live under the most Despotic Government on earth, than under an unlimited Government of numbers. He might escape the notice of one Tyrant, but there would be no escape from a multitude of Tyrants.

The provision which the gentleman from Sampson offers as an amendment to the Report, puts the matter on a proper footing. He points out the manner in which Amendments to the Constitution may hereafter be made; and whenever there is sufficient ground for calling the attention of the people to this great object, there would be no difficulty in obtaining a sufficient number of each branch of the Legislature to favor the call.

It is well known that the difficulties which for some time prevented the late compromise between the East and the West, arose from a jealousy entertained by the East, that the West intended to take some unfair advantage of the East in the arrangement. He believed this jealousy to be unfounded, and therefore did all in his power to promote the arrangement. But, if he should carry home with him a decision of this Convention, that a majority of two successive Legislatures should have the power of changing or annulling any and every part of the Constitution, he should be obliged to say that he had *been deceived*, and that the West had bound the East *hand and foot*.

By the arrangement now made, it is believed that the West will have a majority of six in the House of Commons, and that the East will have a majority of four in the Senate; but from the growing increase of the West, there can be no doubt this majority in the Senate will ere long vanish, and then what is to prevent them, if so disposed, from carrying into effect whatever plans of aggrandisement the wildest demagogues may excite the people of the West to favor.

Mr. G. wished gentlemen seriously to consider the difference there was between amending a Constitution and the passing of Acts in the Legislature. It is necessary that the People should revere the Constitution under which they live—if they do not, they can never heartily support it. Can they revere it, if it be constantly changing? The Constitution of a Country ought never to be altered, but when it becomes absolutely necessary.

But the gentleman from Burke (Mr. Gaither) still insists on the difficulty which has been experienced by the West in bringing about the present Convention. There were many reasons why the claims of the West did not sooner succeed. He owed it to the East to say, that never until lately were these claims fairly before the East.

Sometimes the West connected the removal of the Seat of Government with their claims for more equal Representation—and sometimes they advanced these claims in connexion with other propositions which actually reflected on the understanding of those to whom they were addressed.

Mr. G. referred to the several Constitutions of the States which had been recently amended, to show that nothing like the principle laid down in the Report before the Committee was con-

tained in them; but that they had some provision similar to that proposed by the gentleman from Sampson.

He appealed also to the intelligent and liberal members from the West, who, he was convinced, wished to take no unfair advantages of the East, to consider in what an uncertain situation the system of taxation, and the principles of Representation, now laid down, stood, if they put it in the power of a bare majority of the Legislature to overturn the whole.

Mr. DOCKERY moved to amend the Amendment of the gentleman from Sampson, by striking out the word *two-thirds*, and insert *three-fifths*.

The Amendment was negatived without a division.

The question was then put on the Amendment proposed by the gentleman from Sampson, and carried without a division.

The Committee of the Whole then rose and reported the Resolution, as amended, to the House.

The Convention then considered the Report; when

Mr. HARGRAVE renewed the motion to strike out *two-thirds* and insert *three-fifths*. Negatived, 99 votes to 24.

Mr. GUINN proposed to amend the Amendment, by adding the words "*of the members present*" after the words requiring *two-thirds*. So as to read two-thirds of the members present, instead of two-thirds of all the members of both Houses.

This motion was negatived.

Mr. HARRINGTON moved a substitute for the Amendment of the gentlemen from Sampson, which was negatived.

The question was then taken on the Resolution, as amended by the gentleman from Sampson, and carried, 107 votes to 17.

It was then ordered to a third reading.

Mr. GAITHER, from the Committee to whom was referred the districting of the State for electing the Members of the Senate and the Members of the House of Representatives, made a Report, which was read the first time, and ordered to be printed.

The Convention then took up the next Order of the Day, which was the Resolution directing all future Elections by the General Assembly to be made *viva voce*.

Mr. MOREHEAD objected to the proposed change in the mode of voting for Officers by Members of Assembly. He had heard of no good reason for it. He enquired who it was that wanted the information sought for by this Article? Is it for Members' constituents? If they wanted the information, there can be no doubt they could always get it from the member himself? If the information be for the candidate, or his friends, he saw no reason for indulging their curiosity. As he could see no good reason for this change, he wished to leave members at full liberty to act as they please, and as it could be of no real use to any one, except to answer some party purpose, he should vote against making the change.

Mr. SPEIGHT, of Greene, was surprised that the gentleman from Guilford should now oppose this measure. It had been fully discussed heretofore, and had passed by a large majority. Mr. S. repeated the reasons which he had before offered in its support.

Mr. CARSON, of Burke, was in favor of the Article. He thought that every member's constituents had a right to know how he voted on every occasion.

Mr. COOPER also repeated his former arguments in favor of the Article.

The question was carried, 82 votes to 38.

The next subject in order, was the Article abrogating the voting of free colored persons. The Article being read,

Mr. GASTON of Craven, observed, that when this subject was before the Convention some days ago, the majority against allowing persons of this description to vote, was so small, that he thought there would be no impropriety in testing the question again, though he was neither desirous, nor able, to go into any new discussion of the subject.

In the few remarks which he should now submit, his purpose was to remove what he fully believed to be misapprehensions existing on the subject.

From the best information he could get, he believed that previous to the Revolution there were scarcely any emancipated Slaves in this State; and that the few free men of color that were here at that time, were chiefly Mulattoes, the children of white women, and therefore unquestionably free, because their mothers were so. He learned also from some aged persons, that scarcely an instance could be found at that time, either in Virginia or this State, of an emancipated Slave. And he was confirmed in this opinion, by turning to the first Act passed on this subject in 1777, which, referring to the practice of emancipating slaves, speaks of it as a recent practice, and which provides that no person thereafter shall emancipate slaves, but by an express order of the County Court for meritorious services.

It was stated, as a fact, in a late debate on this subject, that when the Act passed, during the Revolutionary War, calling upon all men to take the Oath of Allegiance, no free colored man had ever taken that oath. Since that debate took place, an old colored man, a resident of this county, named *John Charis*, who is, he was informed, a licensed Preacher in the Presbyterian Church, and well known not only in this county, but in several of the neighboring counties, had handed to him a Certificate of his having taken the Oath of Allegiance, dated Dec. 20, 1778, and signed *James Anderson*, Mecklenburg, Va.

He said he had no doubt that the free colored men at the time when the above Act passed, were chiefly the sons of white women, and therefore entitled to all the rights of free men; and

the Legislative Acts directing in what manner slaves may be manumitted for meritorious services, expressly declared them entitled to all the rights and privileges of colored freemen.

Seeing that these men are thus entitled to the privileges of free men, the question returns, shall we deprive them of this right? For himself, he always felt extremely reluctant to deprive any human being of a right. He never would, unless he was compelled to do so. The privation of this right would be regretted by the colored people, not only on account of its value, but because it would be regarded as an indication of a disposition to force them down yet lower in the scale of degradation, and encouraging ill disposed white men to trample upon and abuse them as beings without a political existence, and scarcely different from slaves.

Seeing no necessity for depriving this class of persons of the right of voting altogether, though he was convinced that some of them were entirely unworthy of the privilege, he proposed to amend the article, by adding thereto the following amendment:

“Unless in addition to the qualifications required of other voters, he shall, for one year preceding any election, have owned and possessed property, real or personal or both, of the clear value of five hundred dollars over and above all incumbrances, charges and debts; nor shall any free negro, mulatto or person of mixed blood, as aforesaid, be permitted to vote at any election, who shall have been convicted of an infamous offence.”

Mr. KING said, however the Convention might dispose of this question, it involved the privileges of a portion of our community, that demanded the serious consideration of this House. It had ever been a maxim with him, if he could not render the situation of a human being more eligible, he would not make it more ineligible.

The question before the Convention is, Shall we abrogate the right of the free colored person to vote, or shall we so restrict it, by ingrafting a provision into the Constitution, that none shall exercise the privilege but such as are possessed of property to a specific amount?

As to the first, that unfortunate portion of our race have enjoyed this privilege partially, since the second year after our Constitution was framed, viz. the year 1778—nine years before the Constitution of the United States bears date. In neither of those instruments is to be found the term “free white men.” The former, speaking of the qualification of a voter for the House of Commons, in the 8th section, says, “all free men of the age of twenty-one years,” &c. “shall be entitled to vote for members of the House of Commons,” &c. Now, sir, this privilege was not thought incompatible with that Article, by the framers of the Constitution, for I do not doubt, but many that were in the Convention that formed that Article were members of the Legislature

that granted that privilege by law. The second section of the first article of the Constitution of the United States, says—“The House of Representatives shall be composed of Members chosen every second year by the people of the several States, &c. and the electors in each State shall have the qualifications requisite for the most numerous branch of the State Legislature.”—From these two sources, we learn the grounds on which this privilege has been extended to free men of color. What abuses may have taken place under it, I pretend not to say, as I do not know that a solitary individual of that description has ever voted in the county of Fredell. The question of citizenship has been introduced by a gentleman, and I think it has an immediate bearing on this subject, and however incompetent I feel to decide that important question, I would have preferred a decision to have been made. There is one description of this unfortunate class of people, that appears to me to form an exception to their common condition. I believe it is conceded on all hands, that individuals in all countries derive their claims to citizenship, or their condition in life, from their mother. Hence it is, that such persons are placed under the guardianship of our county courts, and entitled, in common with all illegitimate children, to the privileges of an apprentice. Sir, I have always understood the privileges of people of color depended measurably upon the nature of their emancipation; and as this is often granted for meritorious services, such as a slave preserving lives or property from destruction, appears to place them peculiarly under the operation of law.—Should we ingraft a provision in the Constitution prescribing the manner by which free men of color should exercise the elective franchise, it might invite persons of that description from neighboring States, who, as well as those amongst us, however unworthy they should become from improper conduct, could exercise the right with impunity. There is one other consideration that appears to involve some difficulty. The second section of the 4th Article of the Constitution of the United States, says—“The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.” Thus, sir, by abrogating the right *in toto*, we would ingraft a provision on the Constitution that would conflict with the Constitution of the U. States. Our present excellent Constitution, in the second section of the Bill of Rights, gives the State the right of regulating the internal government and police thereof.” These are some of the considerations that will induce me to vote against an entire extinction of the right, as exercised by people of color at present, and vote for such an amendment hereafter as will leave the subject under the control of the Legislature, as heretofore.

Mr. FISHER was in favor of some amendment on this subject. He thought the amount fixed by the gentleman from Craven too high. It would be difficult at the polls to ascertain cor-

rectly the value of the property of these persons when they came to vote, and whether they were clear of debt. He thought it would be better to state some specific qualification. He would propose, if the gentleman's proposition from Craven be not agreed to, "that in addition to the qualifications required by white men, each free colored man shall possess at least fifty acres of land, in fee, of not less value than 50 dollars, and shall never have been convicted of any infamous crime."

Mr. HOLMES said, he had an amendment which he preferred to either of those which had been offered, which he read, in the following words: "That, in addition, &c. no free negro or mulatto, or of mixed blood, shall be permitted to vote, who is not possessed of a freehold of 100 acres of land, and shall never have been convicted, &c."

Mr. H. was of opinion that free colored men had a right to vote under the present Constitution. The gentleman from Craven had adduced evidence that they formerly took the Oath of Allegiance like other citizens. He had also seen evidence of the same kind in a case in his own county. But he said these people ought to be allowed to vote on the ground of policy. He had made it his business for five or six years past, to make enquiries of captains of vessels and others, as to the state of colored freemen in the West Indies, and he had learnt that in the year 1791, the authorities in St. Domingo, in consequence of their meritorious services, put the free colored men on the same footing with the whites, and it produced the happiest effects in attaching them to their interests. But some years afterwards, the French Government again deprived them of their privileges, which had the effect of throwing them into the ranks of the slaves, and of course, they felt a common interest with them, and the consequence was the dreadful catastrophe which afterwards took place.

Mr. H. warned the Convention against following this example, which they would do in depriving these people of voting—a right heretofore accorded to them, and would thereby throw them into the ranks of the slaves. Mr. H. referred to the cases which he had before mentioned, in which persons of this description had been of signal service in disclosing plots, that if carried into effect, would have been productive of great distress to the country. It was true, Mr. H. said, that the slaves could never succeed in any of their attempts to overcome the whites, but they might nevertheless produce scenes of desolation and distress to the country, which might probably be prevented, as we know they had been, by treating kindly these freemen of color, and thereby attaching them to our interests.

Mr. H. enumerated the several Acts which had been passed by our Legislature bearing hardly upon this species of our population, and which were calculated greatly to vex and harrass them.

Mr. FISHER offered his amendment, which proposed to admit to vote such free persons of color as shall possess, over and above the qualifications required from white men, 50 acres of land, in fee, of the value of 50 dollars.

Mr. SHOBER said, he would prefer the amendment of the gentleman from New-Hanover.

Mr. SPEIGHT, of Greene, observed, that if free men of color have a right to vote, he thought they ought to be permitted to vote on the same terms with white persons. But he was of a different opinion.

Mr. WILSON of Perquimons said, that this discussion was calculated to produce considerable excitement abroad. It will be seen that there is a respectable portion of this Convention who think that free persons of color ought to have the privilege of voting for members of the General Assembly. He was altogether opposed to allowing this privilege to men of color. He did not believe that the framers of the Constitution ever intended this class of persons to enjoy the right. The Constitution was formed in the year 1776, and in the year following, when it is probable the General Assembly was composed, in part, of gentlemen who had been in the Convention that framed that instrument, we find a law passed, placing these persons on the same ground on which white persons stand who have committed an infamous crime; they are declared incompetent to give testimony against a white person. Mr. W. argued the impropriety of allowing to a man, who was declared to be incompetent to be a witness, the right of voting for a Representative to form the laws by which the country should be governed. In his part of the country, Mr. W. said, free negroes had never been allowed to vote, and he hoped they never would.

Mr. SEAWELL observed, that the amendment of the gentleman from Rowan confined the privilege of voting to such as hold 50 acres of land in fee. This he said would exclude a number of men who might be as respectable and as well qualified to exercise the privilege as those in possession of freeholds. He thought if the qualification had reference to four or five years residence and a regular payment of taxes, he should prefer it.

Mr. FISHER said, his amendment was not such as he precisely wished, but when he could not obtain all that he desired, he was willing to receive what the Convention would consent to give. The Convention has been in session five weeks. This subject has received a full discussion, and it was time that a decision was come to upon it. The gentleman from Greene says, he would admit them all, or exclude them altogether. He saw no reason in this. He thought persons of good standing in this class ought to be admitted to vote, and not forced into the class of slaves. It would be bad policy to take such a course. We ought rather to open a door to such of them, as are respectable

and worthy to be associated with freemen. And it was with this view, that he offered his amendment.

Mr. M'QUEEN observed, that if freemen of colour had a right to vote, there was an end of the argument. It had been said by some, that they ought to have this right for their services during the Revolution. It was his opinion, however, that they had no right, and that good policy requires that the privilege should be withheld from them. They have no distinct interest to protect, and their general interests will be protected by the general Representation of the State.

Mr. CARSON, from Burke, did not believe the free negro ever had, or ever was intended to have, a vote for a Member of Assembly. They are not citizens; and if they were, from their separate cast, they could not be respected as such.

Mr. HOLMES said, a decision of the Supreme Court of this State had declared free colored persons to be citizens. Mr. H. referred to a case where the captain of a vessel had been indicted for carrying away a slave, the property of a free man of color, and the question was raised, whether the owner of the slave was a citizen? And he understood that the case had been decided in his favor.

Mr. CARSON observed, that the Court might have decided that the owner of the slave was a free man, but he doubted whether they could have declared him to be a citizen of the United States. If they did so declare him, he would say their decision was wrong. If freemen of color were citizens, they would have a right to go into any State they chose to reside. But what is the fact? They are not permitted to enter into any State without giving bond for their good behaviour, and some of the States (Ohio for instance) have forbidden their entrance altogether.— If they are to be placed in the situation of freemen, and to be our equals, why not admit our slaves to the same equality? He would as soon admit his own slave to equality as any of them.— No, exclaimed Mr. C. the God of Nature has put his mark upon the negro as a separate cast, and in that cast he wished to keep him.

Mr. COOPER was decidedly opposed to all the amendments which had been mentioned for admitting the free persons of color to vote on any terms.

Mr. KELLY declared it to be rank injustice, and bad policy, to refuse the free colored person the right of voting, when he possessed the same property and other qualifications which were prescribed for other citizens. He contended for the broad principle that all men are entitled to equal rights and principles; that nothing but arbitrary power can forbid their free exercise, and that it is contrary to all the principles of free government, to tax a man, and refuse him a right to vote for a member to the Legislature who lays the tax.

Mr. GASTON wished permission to make a single remark on what had fallen from the gentleman from Perquimons, in relation to the light in which freemen of color were viewed by the framers of the Constitution.

The gentleman has stated, that wherever a man is convicted of perjury, forgery, conspiracy or larceny, he ceases to be a free-man, and loses the right of voting. Such was not his conception of the law. When a man has been thus convicted, he is no longer a competent witness, but he is still a freeman, and of course, has a right to vote. The gentleman had said that the law had deprived the free negro of the right of giving testimony. The law had done no such thing. It had said only, that they should not be permitted to give evidence against a white man. On the same ground that the Civil Law prohibits a father from giving evidence for a son, or a son for his father.

Mr. G. remarked, that, as whatever is said in this Convention, may find its way into the public papers, it might be well that he should say a few words in relation to a decision which had been mentioned as having been made in the Supreme Court of this State.

By an Act of the Legislature of this State, it is made felony, without benefit of clergy, to secrete in any vessel leaving any of our ports, a slave, the property of any citizen of North Carolina. A person was indicted under this Act, for having secreted and carried out a slave, the property of a citizen. An objection was taken, that the slave was not the property of a citizen, being owned by a free person of color. The Court decided, that the act done, come within the purview of the Legislative enactment.

Mr. DOCKERY thought that the qualification of land to the value of 100 dollars, was too small. There are thousands of acres of vacant land to be had in his county, and it would be an easy matter to get fifty acres of this land, and put a cabin on it, and declare it to be worth 100 dollars. He would propose to strike out 100 dollars, and insert 250 dollars.

A division of the question was called for, and it was first taken on striking out, and negatived, 64 votes to 47.

The question was then taken on Mr. *Fisher's* amendment, and negatived, 59 votes to 53.

The question being stated to be on Mr. *Gaston's* amendment, Mr. BRANCH moved to strike out of it "or personal or both," as he wished to exclude personal property from the qualification.

This motion was put and negatived.

The question was then taken on Mr. *Gaston's* amendment, and negatived, 64 votes to 55, as follows:

YEAS.—Messrs. Andres, Arrington, Bowers, Bunting, Boddie, Cox, Cansler, Chalmers, Daniel, Dockery, Dobson, Elliot, Fisher, Franklin, Gaston, of Craven, Gaston, of Hyde, Guinn, Gaines, Gray, Giles, Gudger, Hill, Hall, Hussey, Holmes, Jones, of Wake, Jones, of Wilkes, Joiner, King, Kelly, Morris, M'Millan, Moore,

McPherson, Morehead, Martin, Marsteller, Owen, Parker, Powell, of Robeson; Swain, Styron, Shipp, Seawell, Sherrard, Smith, of Yancy, Shober, Tayloe, Troy, Toomer, White, Welch, Whitfield, Welborn.—55.

NAYS.—Messrs. Bonner, Baxter, Branch, Brittain, Biggs, Bailey, Birchett, Brodnax, Carson, of Burke, Cathey, Cooper, Calvert, Carson, of Rutherford, Collins, Edwards, Ferebee, Faison, Gatling, Gaither, Graves, Gilliam, Grier, Gary, Hogan, Hargrave, Hooker, Hodges, Huggins, Howard, Hutcheson, Harrington, Halsey, Jervis, Jacobs, Lea, Leseuer, Macon, McQueen, Melchor, Marchant, Mearns, Norcom, Outlaw, Powell, of Columbus, Pipkin, Ruffin, Rayner, Ramsay, of Pasquotank, Roulhac, Sawyer, Skinner, Spaight, of Craven, Sugg, Stallings, Speight, of Greene, Saunders, Wilson, of Edgecomb, Williams, of Franklin, Wooten, Wilson, of Perquimons, Williams, of Person, Williams, of Pitt, Wilder, Young.—64.

The Convention then adjourned.

TUESDAY, JULY 7, 1835.

After Prayer by the Rev. Mr. Jamieson,

Mr. GASTON of Craven, observed, that it would be recollected by the Convention, that some days ago, he had laid on the table, a Resolution involving an important principle, as he conceived, the consideration of which he now asked for. Since the introduction of the Resolution, he had reflected much on the subject matter of it, and his views, as to the expediency of adopting the principle suggested, were more thoroughly confirmed. He wished to have it acted on with deliberation, and hoped the Convention would therefore now take it up.

The Resolution was read as follows:—

“*Resolved*, That it is expedient, in framing amendments to the Constitution, on the subject of Representation, in the House of Commons, to provide, that in making every apportionment, the Legislature shall divide, or cause to be divided, those Counties to which more than two Representatives shall be assigned, into Election Districts, consisting severally of contiguous territory, and of equal federal numbers, as nearly as convenience will permit, each of which Districts shall elect one Representative only.”

Mr. GASTON said, he did not feel disposed to occupy much of the time of the Convention, and would therefore with the utmost brevity, consistent with perspicuity, state the reasons which induced him to bring forward this proposition.

In the first place, it affords the best opportunity of having a full expression of the public voice. The chief object of all Representative Governments is to afford to the people, whose conduct is regulated by legislative enactments, a full, fair and free opportunity for the deliberate expression of their will. And, that mode of Election is to be preferred, which gives the fairest chance for arriving at public sentiment. That this arrangement would afford such an opportunity, he thought demonstrable. By means of it, the same number of individuals in every part of the State will have equal weight. For instance, if a district should consist of 6000 of federal numbers, it would elicit as fully, as

the nature of Government will admit, a fair expression of public sentiment. But suppose a county, with 24,000 federal numbers, entitled to 4 members, elected by the whole county—that 12,500 of these vote for one set, and 11,500 for another—the voice of all these freemen is unheard in the legislative hall.

It was also, the fairest arrangement, for this reason. When in a county, there are a number of candidates, they form combinations and enter into intrigues. It is now frequently the case, that there is a tacit or express understanding between candidates, to this effect:—"You run me in your end of the county, and I will press your claims in my neighborhood." And this kind of management increases in geometrical ratio as the number of Representatives in a county increases. But where there is only one member to be elected, there is a distinct expression in favor of one individual.

There were other reasons why this arrangement should be adopted. He presumed every gentleman on that floor would admit, that if the counties in the East had equalled, in size and population, those of the West, no Convention would ever have been demanded. The real grievance complained of by the West, and that it was a grievance he admitted, was, that 5,000 men, in one section of the State, had as much weight in the Legislature as 20,000 in another. It was not because counties were equal in Representation, but unequal in numbers. To remedy this effectually, we ought to equalize as far as practicable the the voice of *the people* in every part of the State. This will not be done if the large counties vote in common for the whole number of Representatives to which they are entitled, as is now the usage—because the majority will be represented, but the minority will not. This mode gives to those who wield the power in large counties an unfair strength. In other States, this evil has been prevented by increasing the ratio entitling to Representation as the number of members increases. Thus in Maine, and most of the New England States, each Township is entitled to be represented in proportion to its population, though the ratio is increased as it proceeds. Thus 1500 inhabitants entitles a Township to 1 member; 3,750 to 2; 6,750 to 3; 10,500 to 4, and 15,000 to 5. The principle applied is familiar to gentlemen who have had any thing to do with Banking Companies, where representation is given to shares. Each stockholder has a vote equal to his number of Shares not exceeding 10 Shares; then to an additional vote for every *two* Shares not exceeding twenty, and so on—proceeding upon the plain principle, that as you concentrate power, you render it more efficient. Fifty votes given by two men are far more powerful than fifty votes given by fifty men. The same principle prevails in Georgia. Each county containing 3000 inhabitants, is entitled to 2 members; 7000 gives 3, and 12,000 gives 4.

We have not the power, continued Mr. G., to adopt this mode, consistently with the terms of the Convention Act, or he would have been disposed to pursue it; for he did not contend that the counties of Orange and Lincoln, having each four members, did possess in the Legislature greater weight than four members from four other counties entitled to one each. In Louisiana, the Constitution contemplates this plan of districting counties. There, however, the power was lodged in the Legislature; here, he desired to see it incorporated in the Constitution, and made permanent.

Satisfied, then, that this plan of districting the large counties, would give the fullest and freest expression of public sentiment, that it would operate more equally on the principle of Federal numbers. Mr. G. said, he would proceed to examine the objections which he had heard urged against it. In the first place, it is said, by making this arrangement, we shall transcend our legitimate powers. Was this true? The organic Act, under which we are assembled, declares that the members of the House of Commons shall be elected by counties, or districts, or both, according to federal numbers. We have the power to do either. We have gone to a certain extent, and apportioned representation by counties; he wanted to go further, and apportion a part by districts. He denied that by district, was meant a territory larger than that embraced within a county; it meant an integral portion of some county. The Legislature had laid down only general principles, and left the manner of carrying them out discretionary with the Convention.

It was further objected, that if the principle were a good one, it would apply with equal force to counties having only two members, as to those having four. He would here repeat a sentiment which had become thread-bare from use, but which, notwithstanding its triteness, was a correct one—that in revising the fundamental law of the State, as little violence as possible should be done to existing habits and usages. The counties in N. Carolina have heretofore been accustomed to vote for two members each in the House of Commons; from a principle of stern necessity, it is found necessary to alter this arrangement. He acquiesced in it, though he confessed that he was not very sanguine of benefits from the change. Under this change, while several counties gain members, others lose them, and a portion still retain their usual number. With the fixed habits of these, he was loth to interfere unnecessarily. But to those counties which were to acquire new rights, he would say—take them, but under such restrictions, as will not make your overgrown power onerous to the smaller counties. For he asserted distinctly, that this division of the large counties into districts, would not derogate in the slightest degree from their political weight. But this effect would justly be produced. It would prevent a party, having a temporary

ascendency in a county, from wielding it to purposes of personal aggrandizement. No one, he presumed, would deny, that if every State in the Union would agree to choose their Electors of President and Vice-President, by Districts, that it would be much the fairest mode. But the politicians of large States, were always opposed to this change, because, it prevents them from wielding, by the agency of combinations and caucuses, the entire power of the State. So, the politicians of these large counties may oppose the proposition to district them, from similar views of policy.

Another reason, said Mr. G. which operated with great force upon his mind, was this: He had more than once declared that he came to this Convention, neither as an Eastern or Western man, but to make peace and produce tranquility. Nothing can render the painful privation of political power more tolerable to the small counties, than the adoption of this plan. The delegates could then go home to their constituents and say—it is true you are entitled to but one member, and the county of Orange sends four; but it takes the same number of voters there to elect a member as it does with you, and therefore every voter has the same political weight. He thought it a matter of no slight importance in making a change involving principles of such magnitude, to render the operation of those principles as little unpleasant as possible.

Mr. BRANCH was opposed to the amendment, although he represented a large county, and would briefly state his views why he was so. In the first place, if the principle laid down be correct, why not carry it out, and apply it to counties which are entitled only to two members. He defied any one to show a reason why the regulation should be made with regard to the largest class of counties, which would not apply with equal force to those of somewhat less dimensions. But, says the gentleman from Craven, it will prevent unpleasant feelings—he thought nothing was more likely to give rise to them. It would be found, too, exceedingly inconvenient in its practical operation. Every ten years, it is recollected, the State is to be apportioned; how is the population of these Districts to be accurately ascertained? The population of a county is taken *en masse* under the U. States Census, and the enumeration of a District, therefore, could only be made under a State regulation. But see the unequal operation of the system. Halifax is entitled to three members, and would, therefore, be divided into three Districts; Craven, from which the gentleman comes, is entitled to two members and is not divided; Halifax has her strength frittered away, while Craven brings to the Polls her whole political power. Is this just?

Another reason against the establishment of such a principle, is, that it would tend to deprive the large counties of the servi-

ces of their able men. In many Districts, it would be impossible to make a judicious selection, for want of materials. It would also array neighbor against neighbor—there would be as many candidates for a District, as there is now for a whole county. We have all witnessed the evil consequences resulting from Borough Elections—the warmth of feeling and strife engendered—and the evils attendant upon them would be tenfold greater under this District system. He appealed to counties, having only two members, to their sense of justice, to vote down this scheme. There were already objections sufficient to elicit opposition to the ratification of the Constitution, and if this proposition prevailed, the county of Halifax, which before gave a majority for the Convention, would be found unanimous against it. The gentleman from Craven contended, that we have authority under the Act of Assembly which convened us, to adopt this plan. He doubted it very much. The Legislature never intended to confer such power; but if they did, its exercise would be inexpedient and improper.

Mr. DANIEL rose to make but a remark or two. There was but one Constitution in the United States, (Louisiana,) where a principle, precisely similar to that under consideration, existed. The gentleman from Craven had also alluded to Kentucky, but the plan recognized in the Constitution of that State, was not analogous to this. In the New-England States, though divided into Townships, every individual is entitled to vote for three candidates; there are no Districts, as proposed in this Resolution.—The same thing occurs in Georgia. He reiterated the declaration, that there was but one State, out of the whole twenty-four, in which this district system is in operation, and the reason why it was adopted there, is, that the country is so separated and cut up by swamps, as to render it necessary. In England, the principle was in force, but it was owing to the dense population—great masses of people inhabiting small portions of territory.

Mr. CARSON, from Rutherford, said, that the Resolution, if adopted, would have a material bearing on his county. The Representation in the Legislature has heretofore been by counties. It is still retained, so far as one member is concerned.—As regards the responsibility of a Representative, the principle under consideration is an important one. The individual representing a whole county, is immediately responsible to the whole county; but one of these district members, representing a little portion, would be responsible only to that fraction, though it was true he would owe a remote responsibility to the whole county. How was it possible, that an individual could be said to represent a whole county, when he is elected in an obscure corner of it, against the wishes, perhaps, of the remaining portions of it?—To say the least of it, the principle is untried and novel, and we ought not to venture on it, for we know not how it is to affect us.

He was certain it would be productive of evil. Take the case of two promising young men in the same neighborhood, who have entered the arena of political strife, and are aspiring to a seat in the Legislature. Friends become enlisted, the angry passions are excited, and having but small limits to move in, the contest becomes so bitter, as to resemble greatly the feuds of the Montagues and Capulets.

Mr. C. said, he could not think they would be acting up to the letter or spirit of the Act, if they sanctioned this proposition.— But if a majority should approve the principle, it would be at least prudent to leave the adoption of it discretionary with the Legislature. One thing, however, he must say, if the Resolution prevailed, the large counties would vote against the ratification of the Constitution.

Mr. GILLIAM said, before discussing the expediency of this proposition, he thought there was a preliminary question which ought to be settled—have we the power to do it? He had read the Convention Act very attentively, but had never conceived that such a power was delegated to us; and whilst he would differ with the gentleman from Craven with great deference, about any question involving the construction of an Act, yet he thought the interpretation of that, under which they were convened, so plain, that he felt bound to express his dissent to the views taken of it. The Convention had not the power to district these counties, and he thought he could demonstrate it to the satisfaction of the House. The power under which the gentleman claims authority to carry his plan into execution, is derived from that section which says, in reference to the Commons, that it shall consist of not more than 120 members, to be “elected by counties, or districts, or both.” Where there is any doubt as to the proper construction of a Statute, it is a safe rule to consult the intentions of those who framed it. By examining that part of the Act which relates to the arrangement of the Senatorial Districts, it will be seen in what sense the term *District* was intended to be used.—The Senate shall consist of not more than 50 members, “to be elected by districts, which districts shall be laid off by counties,” &c. It does not mean, sir, a captain’s district, or any thing so limited in its character, but obviously intended to form the “district” from the union of two or three counties. The import of the word *district*, is thus collected too plainly for misconception. If the Legislature had intended differently, would they not have used different language? He asked gentlemen to take up the Act and examine it deliberately, and separate it for a moment, if they could, from the fact, that a different construction was given to it by the gentleman from Craven, and they could never suppose the Legislature intended any such thing. Indeed, it would seem, that the Legislature, fearing the Convention might give an incorrect exposition to the Act, expressly declares, that

in the formation of a Senatorial district, "no county shall be divided." It was clear to his mind, that they had no authority to do it; or if they had, that it would be highly inexpedient to exercise it.

Although representing a large county, he could not blind himself to the fact, that it would have a most unfortunate influence on the intercourse of neighbor with neighbor. Every man knows, that where there is an election, there is heat; and in proportion as space is circumscribed, its intensity is increased. At present the heat is diffused over a wide surface; but adopt this district system, and the certain consequence will be, that feuds will be generated, divisions created, and every county will be cut up into factions, hating each other with the bitterness of Highland Clans. This bitterness will be carried into the jury-box, and into all the walks of life. Who does not see the evils which the system would produce?

Mr. G. said, there could be but two reasons urged in favor of the plan. One was, that it would act as a sort of *placebo* to the wounded pride of those counties which had been curtailed of power. He was the last man in that body who would exult over the deprivation of their political strength. They had contributed to our Legislative Councils more than their quota of intellectual and moral worth, and were entitled to his sympathy and respect. But their loss was occasioned by the operation of a rule which had been laid down, and which they were under obligations to carry out, however injuriously it might affect some sections of the State.

Another reason was, that in counties having large towns, the effect might be to increase the respectability of the Legislature, by the selection of talented members. He should rejoice if this effect could take place, but they had no power to aid in its accomplishment. And even if an amendment were offered to extend the provision to counties having two members, so convinced was he of the impropriety of the measure, that he should vote against it. The gentleman from Craven had stated, that it would tend to ensure a fair expression of the popular will. In some instances it might; but he could conceive a case in which a minority might triumph over a majority. In one district of a county, a candidate may receive a unanimous vote, whilst in two other districts, candidates of different political feelings may be elected by small majorities. In this instance, it is palpable that the whole county is not fairly represented. It is impossible to devise a system of Representation, which will not, in some cases, operate unequally upon particular portions of the country. Our present system, it is true, has defects; but in attempting to eradicate them, great care should be taken that the remedy is not worse than the disease. The remedy proposed by the gentleman from Craven, he thought, was of this character. He concluded,

by appealing to the magnanimity of the Convention, not to fasten a system upon the larger counties which could not fail to have a fatal influence upon their prosperity and peace.

Mr. GASTON regretted, that the support of this Resolution fell entirely on himself; but he could not abandon it, because satisfied it ought to prevail. If convinced he was wrong, he would most readily retract his opinion, for he felt not the slightest pride of opinion or sectional interest in the matter. If the principle were even extended, so as to embrace counties entitled to two members, he would support it. He had listened attentively to all the objections which had been urged, and was obliged to say, with great respect, that he could not perceive their validity; and he was highly gratified, that though his Resolution had been attacked, yet none of those who had spoken, agreed, among themselves, in the grounds of their objection.

One of the objections urged against the proposition, was, that it would make factions more violent; and it had been laid down as an axiom, that in proportion as the range of contention is narrowed, the bitterness increases. He distrusted these compendious theories. He believed, that as the number of excited people is augmented, the violence of the contending parties is increased. But, where the necessity of discussing this abstract proposition, when we know that, as applied, the objection itself is ill-founded. Each proposed district will contain a population equal to that of the counties sending one member. Are these small counties more factious and turbulent than the larger ones? His observation had induced an entirely contrary conclusion.

The gentleman from Rutherford had said, that the members, thus elected, would represent not a whole county, but a district. This is what he wanted them to represent. Was there any particular magic about the word *county*? Are the *counties*, or the interests of the *people* to be protected? Let the Representatives be answerable to their immediate constituents, and they will vote for those only whom they know are faithful.

It was said, that if this principle be sanctioned, the large counties would vote against the ratification of the Constitution. He knew it was almost impossible to abstract this consideration from the merits of a proposition; but he wanted to submit the the Constitution to the calm good sense of the people, and would resort to no expedients to catch friends or drive away foes.

It is also said, we have not the power to district the counties. He had listened to the argument of the gentleman from Granville, with the attention due to his standing here and his character abroad; and if any thing were wanting to confirm him in his views, it was to be found in his remarks. The first part of the 13th section of the Convention Act directs, that the Senate shall be reduced to not less than 34, nor more than 50 members, to be elected by districts, *provided no county be divided in the formation*

of a *Senatorial district*. Now, what is the regulation about the Commons? The members are to be elected—how? By counties, or *districts*, or both, without any thing being said about dividing a county. Why was the provision annexed in regard to the Senate, because it was foreseen, that, without such a provision, the Convention might have divided a county in the formation of a *Senatorial District*, and this they intended to prevent; but they were silent as to the districting of counties for members of the other House, for this they intended to leave to the discretion of the Convention.

It is said, with great confidence, that there is no reason for districting the large counties which will not apply with equal force to counties having two members. He was so attached to the principle, that he would go for it, even if extended to counties having two members; but he had already stated, and as he thought, they had not been answered, his reasons why he should prefer its being applied only to the larger class of counties. He would not, for mere ideas of theoretical perfection, interfere with those counties which had experienced no change in the number of their Representatives.

MR. BRANCH moved to modify the Resolution, by extending its provisions to counties with two members.

MR. JACOBS hoped the original proposition would prevail; it was the true way to give every man in the State his just political weight. The gentleman from Granville had spoken of the wounded pride of small counties; there was such a thing as the inflated pride of larger ones.

MR. SPEIGHT, of Greene, moved to lay the whole subject on the table, (tantamount to a rejection,) which was decided in the affirmative, as follows:

YEAS.—Messrs. Andres, Bowers, Bonner, Branch, Brittain, Biggs, Bunting, Birchett, Brodnax, Boddie, Cathey, Cox, Cansler, Cooper, Chalomers, Chambers, Carson, of Rutherford, Collins, Daniel, Dockery, Dobson, Elliott, Fisher, Faison, Franklin, Gaither, Graves, Gilliam, Guinn, Grier, Gaines, Gray, Giles, Gudger, Hogan, Hargrave, Hussey, Hooker, Hutcheson, Holmes, Jones, of Wake, Jervis, Jones, of Wilkes, Joiner, King, Lea, Lesueur, McQueen, McMillan, Melchor, Morehead, Martin, Martteller, Montgomery, Meares, Moore, Parker, Powell, of Robeson, Ruffin, Rayner, Spaight, of Craven, Speight, of Greene, Shipp, Sherrard, Smith, of Yancy, Shober, Tayloe, Troy, Toomer, White, Wilson, of Edgecomb, Williams, of Franklin, Welch, Williams, of Person, Whitfield, Welborn, Young.—77.

NAYS.—Messrs. Averitt, Arrington, Adams, Baxter, Bailey, Calvert, Ferebee, Gatling, Gaston, of Craven, Gaston, of Hyde, Gary, Hill, Hall, Hodges, Huggins, Howard, Halsey, Jacobs, Kelly, Macon, Morris, McPherson, Marchant, Norcom, Outlaw, Owen, Pipkin, Ramsay, of Pasquotank, Roulhac, Swain, Styron, Sawyer, Skinner, Sugg, Stallings, Saunders, Seawell, Spruill, Wooten, Wilson, of Perquimons, Wilder.—41.

On motion of MR. MOREHEAD, the Article in relation to the impeachment of Governor, Judges, &c. was taken up on its second reading. One provision in the Article, is, that "upon the trial of an impeachment, the Chief-Justice shall preside."

Mr. SPAIGHT, of Craven, suggested that there was no such officer recognized in the Constitution, as Chief-Justice.

Mr. MOREHEAD said, neither was there such an Officer recognized in the Constitution of the United States as Chief-Justice, except in that clause where it is made his duty to preside in an impeachment of the President.

Mr. SPEIGHT, of Greene, said, he could see no necessity for having a Judge of any kind present in the trial of cases of impeachment. When the Senate is constituted a Court of Impeachment, each Senator lays aside his legislative garb and assumes a judicial one, and each has the same power to determine questions of law or evidence which may arise. The only duty which devolves upon the President of the Court, is to preserve order. In the trial of Judge Peck, the Vice President never voted or gave an opinion unless there was a *tie*. The reason why it is made the duty of the Chief-Justice to preside, when the President of the United States is impeached, is, because, in the event of his being found guilty and cashiered, the Vice President succeeds to his office, and has therefore, too obvious an interest to bias his mind, to admit of his presiding in that particular place.

Mr. BRANCH said, he was disposed to think with the gentleman from Greene, that no Judicial officer was necessary in cases of impeachment. He therefore moved to strike out the whole of that part of the Article which provides that the Chief-Justice shall preside, &c.

On this motion a desultory discussion of some length arose. It was supported by Messrs. Speight, Branch, McQueen and Toomer, and opposed by Messrs. Morehead, Seawell and Giles.

[It is not considered necessary to publish this debate in detail. The general scope of the argument in favor of the motion was, that inasmuch as the opinion of a Judge, if present, would not be binding on any question which might arise, each Senator being equally clothed with judicial power, it was perfectly useless to require the services of one. For the simple purpose of preserving order, any member of the Senate would be as competent to the task as the highest Judicial officer; but if thought necessary to have a Judge at all, it was making an invidious selection between the members of the Court to designate the Chief-Justice. But it was inexpedient on another score, viz. that a Judge was but a human being, and when a brother Judge was impeached, he would find it impossible to divest himself of a natural partiality or leaning towards him.]

On the other hand, it was contended, that even in cases of simple assault in our Courts, in the investigation of the facts, the parties are tied down to the strict rules which govern the law of evidence; and was it not monstrous, that greater laxity should be observed when high functionaries were impeached for mal-practice in office? That it was irreconcilable with reason,

that a farmer, however respectable in his sphere, when called on as a Senator to assume the office of Judge, should be able to lay down the law correctly, as to the legality or relevancy of testimony. That no exception could be taken by the other Judges, at the selection of the Chief-Justice, because his title had been conferred by his brethren of the Bench themselves, and it was therefore to be presumed, that he was fully competent to discharge the duty assigned him.]

The motion to strike out prevailed, and the Article as amended, passed its second reading; and the Convention took a recess until 3 o'clock.

EVENING SESSION.

The Article in relation to the Attorney General, providing that he shall be elected for a term of years, was taken up, and Resolved, that he shall be elected by the General Assembly every four years.

The next subject considered, was as to the mode which shall be taken for supplying vacancies in the General Assembly, accruing before the meeting of the General Assembly: it was ordered that such vacancies shall be filled by the issue of writs of election, under such regulations as may be prescribed by law.

The next matter taken up was the Report on the amendments necessary to be made for removing Judges of the Supreme or Superior Courts, for mental or physical inability; when it was resolved, that Judges may be removed from office, on the above grounds, upon a concurrent resolution of two-thirds of both branches of the General Assembly, twenty days notice to be given to any such Judge, accompanied with a copy of the causes alleged for his removal. This Report also states, that the salary of the Judges shall not be diminished during their continuance in office.

Mr. BOWERS moved to expunge from the Report the last clause, but the motion was negatived, 76 votes to 40.

WEDNESDAY, JULY 8, 1835.

After Prayer by the Rev. Dr. McPheeters,

The Article in relation to the appointment of an Attorney General, by joint vote of the Legislature, every four years, was taken up on its third reading.

Mr. SEAWELL moved to amend it, so as to provide for the election of that officer, at the first session of the Legislature after 1839, and every four years thereafter.

This motion was supported by the mover, and by Messrs. MOREHEAD and WILSON, and opposed by Messrs. GASTON,

BRANCH and MEARES. It was argued in favor of the Resolution, that as the Legislature had provided for the appointment of Solicitor General and Solicitors, at intervals of four years, every principle of sound policy, good sense and propriety, required, that the same regulation should obtain, with regard to the Attorney General. If the election did not take place until 1839, the present incumbent would be in office as long as any individual who might succeed him; and that most probably, if he performed the duties of the office to the satisfaction of the public, he would be re-elected. If he were incompetent as an officer, he ought not to continue for life, however amiable as a man or respectable as a citizen.

On the contrary, it was contended, that as the Constitution now declared that the Attorney General "should hold his office during good behaviour," the right of the Convention to alter the tenure of his office—to affect his vested right therein—was extremely questionable. That there was no analogy between changing the term of office of the Attorney General and electing the Solicitors every four years; for this reason: the Act of Assembly which created those offices, prescribed no term of office, and the Legislature, therefore, in fixing the election of them every four years, interfered with no pre-existing rights. Under the Constitution of the United States, all offices, the term of which is not prescribed, are held at the will of the appointing power. But where a definite term is prescribed, it is not proper to legislate an individual out of office, by retrospective enactments.

The question on Mr. SEAWELL's amendment was decided in the affirmative; and the Article, as amended, was referred to the Committee of Seven for enrolment.

The Article prescribing the manner in which future amendments shall be made to the Constitution of the State, was read the third time.

Mr. MEARES proposed, as an additional safeguard against the efforts of a bare majority, to uproot the fundamental principles of the Government, to amend the Article, so that no Convention of the people should hereafter be called, except by a concurrent vote of two-thirds of each House of the General Assembly.

Mr. GILES asked if it was possible that this body would assume to control the future action of the people of North Carolina, by adopting such an amendment. He had heard of a power behind the throne greater than the throne itself; but this was a power above the throne. A doctrine had been started in 1824, somewhat akin to that involved in the amendment, that the people were their own worst enemies, and incapable of self-government. He subscribed to no such doctrine. The people of this State were a sober, steady people, not disposed from mere whim or caprice, to upturn the fundamental principles of the Govern-

ment. He held in his hand an amendment, providing that three-fifths of the Legislature may call a Convention to amend the Constitution, when they deem it necessary, which he should offer, if the one under consideration should be rejected.

Mr. GASTON, of Craven, thought that the sense of the Convention had been so distinctly ascertained, the other day, when the question was discussed, that no farther obstacles would be thrown in the way of carrying out the principles agreed on. But we are now met by the popular cry, that we are about to limit the power of the people. It was not the people, but the creatures of the people, that the amendment proposed to limit. The course proposed was not an unusual one. It was recognized in three Constitutions, which he had picked up on the spur of the moment, viz: South-Carolina, Alabama, and the United States.—It is to impose a check on the Legislature, that it may not avail itself of an incidental majority to disturb the repose of the people by frequently calling them together in Convention. We are called on by every consideration, not to sanction the principle, that a bare majority may authorize a Convention; if we do, we shall be exposed to continual fluctuations. The people have, it is true, the sacred right of Revolution—they possess the power of rising in their might and upturning the fundamental principles of government; but they cannot do it, unless the emergency is great. Mr. G. concluded by saying, if the right of a bare majority to call a Convention were recognized in the Constitution, he would not give one fig for all the matters which the Convention had been engaged in adjusting, since it assembled. Instead of any permanent regulations, every thing would be set afloat, and we should have a new Constitution every two or three years.

Mr. HOGAN proposed to amend the amendment, by striking out *two-thirds*, and inserting *three-fifths*. His object was to make the calling of a Convention as difficult a matter as possible. He was entirely opposed to the Legislature amending the Constitution. He preferred the People, in revising their fundamental law, should act through a Convention, from the deliberations of which, all persons should be excluded who were members of the Legislature which called it. This would secure the services of aged, experienced men, who were retired from the bustle and strife of the political world.

Mr. GASTON, of Craven, said the amendment proposed by the gentleman last up, so far from carrying out the principle previously established by the Convention, was in direct conflict with it.

Mr. MEARES said, it might be supposed by some, that he was influenced by sectional feelings in introducing his amendment; but this was not true. All who had observed his course, would admit that he was as little liable to the charge of legis-

lating under the influence of sectional views, as any one on that floor. It is well known, that a large portion of the people of North Carolina, are in favor of adopting white population as the basis of Representation. He did not speak of the intelligence of the country, but of the people *en masse*. He was radically opposed to such a basis, and would prefer living under any Republican Government, to one recognizing the principle of mere numbers as the basis of its Representation. To guard against this, was the object of his amendment.

Mr. SWAIN said, he rose to remark, with perfect respect and kindness, that whenever any question arose here, in which the interests of the West were involved, there seemed to exist, on the part of Eastern gentlemen, a *morbid* sensibility. This was not just towards their Western brethren, who had acted in good faith, and met all their pledges like men. He came here himself with two distinct objects in view—one to reform the inequality of Representation—the other to expunge the 32d Article; and having acted on these two subjects, he would have been willing to relinquish his seat. He had voted in favor of the provision making the Capitation Tax equal, against the convictions of his better judgment, to appease an idle jealousy. The Western Delegation, to a man almost, had also voted for it, though, in the language of the gentleman from Burke (Mr. Gaither) they believed it opposed to the substantial interests of North Carolina. He thought there was much needless solicitude with regard to future amendments of the Constitution. If any change were desired, from what quarter would it proceed? Not from the West; for they would probably be satisfied with the compromise; but the proposition would come from the small counties of the East. He expressed his intention to vote for the amendment offered by the gentleman from Davidson, (Mr. Hogan.)

Mr. SHOBER explained why he should vote against the amendment of the gentleman from Davidson, and for the amendment offered by the gentleman from Sampson.

Mr. SPEIGHT, of Greene, wanted to know why the West wished a Convention so easily called? Was it to carry into execution some plan now studiously concealed? Surely, after we shall have settled the principles of this compromise, no future Convention will ever be called to disturb them. He was willing to go forward and finish the task assigned them, in good faith, and submit it to the people for ratification or rejection.—If ratified, he hoped the new Constitution would not only exist for sixty years, as the present one had done, but would remain untouched for centuries—that we should never again hear of East and West, but meet harmoniously, like a band of brothers, to carry a common object into effect. But if gentlemen were disposed to unsettle this compromise, when chance threw it into their power, he warned them to beware of the consequences.

MR. GASTON, of Craven, asked to be excused for again trespassing on the patience of the Convention. He was aware that the course which he had pursued in this Convention, would expose him to great misconstruction, but he had made up his mind to do his duty, regardless of consequences—solacing himself with the consciousness of acting from principle, and entertaining the hope that he should live down all misconception of his motives. He had acted on every question, so far as his fallible and imperfect nature would admit, without reference to the effect which the propositions discussed might have on the East or the West. The only point of enquiry with him, was—is it right, or wrong? If he had uttered a single word, calculated to convey the impression that he intended to upbraid any portion of the Convention with a want of good faith, he regretted it. It was not that he distrusted the good faith of Western gentlemen, that he advocated the propriety of limiting the action of the Legislature. Had he distrusted their good faith, would he for so many years have subjected himself to the responsibility incurred by acting with them? Had he distrusted them, would he here have taken the stand he had, on many subjects, on which those who sent him here held different opinions? No pledges can be given here by gentlemen, however honorable their standing, that natural dispositions may not be fostered until they become predominant opinions. *There was* a sensibility felt in the community—gentlemen might call it morbid—but was that any reason why it should not be allayed, if it could be done without injury to the community? It was not to be disguised—apprehensions are entertained, that at some future day an attempt will be made to adopt free white population as the basis of representation. It was not in a spirit of distrust, therefore, that he advocated the amendment of the gentleman from Sampson—not with a disposition to reproach the West, but from a desire to preserve the principles now settled from rash experiments.

MR. FISHER remarked, that the existence of this morbid sensibility, as it was termed, was easily accounted for. For 30 or 40 years, the West had been seeking a Convention, and the East had been opposing it. It was natural, that having had so much difficulty in succeeding, the West should provide an easier mode of calling Conventions in future, and that the East, from policy, should want to make it as difficult as possible. But considerations of this kind ought not to influence us now, for the causes which produced them, was, he hoped, banished forever. For himself, he was opposed to an easy mode of obtaining a Convention, and decidedly preferred the plan of amending the Constitution through the Legislature.

MR. MEARES said, to satisfy some gentlemen near him, he would modify his amendment so as to provide that no Convention shall hereafter be called by the General Assembly, except by a concurrent vote of two-thirds of each House.

Mr. GILES said he was then perfectly satisfied with it.

The question on Mr. HOGAN's amendment was lost; and the question recurring on Mr. MEARES's amendment, was adopted, 90 to 29, and the Article was referred to the Committee of Seven.

Mr. MEARES moved for leave of absence for Mr. *Skinner*, of Chowan.

Mr. S. remarked, that he had intended to leave, but sufficient had transpired there, that morning, to convince him that it was not safe to do so. He should therefore remain.

The Convention took a recess.

EVENING SESSION.

The Article being under consideration for vacating the office of Justices of the Peace, and disqualifying them from holding such appointment, on conviction of an infamous crime, or of corruption and mal-practice in office,

Mr. JACOBS moved its indefinite postponement; which motion was negatived, 89 votes to 14.

The Article in relation to impeachment for violations of the Constitution, mal-administration or corruption, by the Governor, Judges, and other officers of this State, being under consideration,

Mr. SHOBER thought that an amendment was necessary in the Article, in order to prevent interruption in the ordinary business of legislation. All such impeachments are to be made by the House of Commons, and tried by the Senate. In looking over Constitutions containing a similar Article, he found that provision was made that no impeachment should be entered upon, until the Legislative business of the Session was gone through. He therefore offered an amendment to this effect.

Mr. DANIEL thought such a provision altogether unnecessary, as that would be the natural course taken, if any such occasion should ever arise.

Mr. SHOBER thought it would be right to have the course prescribed, as in other States.

The question on the proposition was put and negatived.

The Article then passed its second reading.

The Report for laying off the State into Senatorial Districts, was next taken up; when

Mr. KELLY moved to amend the Report, by striking out the county of Montgomery from the 34th District, and attaching it to the 33d, and went into a very long argument in support of his motion.

Mr. COLLINS, the Chairman of the Committee who framed the Report, replied, and supported the plan adopted; believing that, on the whole, it was as good as could be made; that no plan could be formed that would not be in some respects unequal; that if the plan was altered in one part, it would derange others, and

that he hoped it would, therefore, be suffered to remain without alteration.

Mr. KELLY's proposition was negatived, 93 votes to 21.

Mr. BAILEY then moved to amend the Report, by forming a district of Hertford and Gates, and Perquimons and Chowan into another, so as to give the Senator to Pasquotank instead of Hertford county, and went into an argument of considerable length in support of his motion.

Mr. COLLINS again defended his Report, as being more just and equal as it stood, than it would be, if altered in the way proposed.

Mr. RAYNER spoke also in opposition to the proposed amendment. It was negatived, 83 votes to 17.

THURSDAY, JULY 9, 1835.

After Prayer by the Rev. Mr. Jamieson,

Mr. BRANCH moved to take up the Report prescribing the mode of ratifying such Amendments as shall be made to the Constitution.

The Report was read accordingly. It recommends that the Amendments adopted, be submitted to the People on the second Monday in November next; that the Sheriffs compare and certify the results of the Elections on Thursday or Friday immediately succeeding, and transmit the same to the Governor of the State within ten days thereafter; that it shall be the duty of the Governor to examine and make proclamation of the result.

On motion of Mr. MARCHANT, *Thursday or Friday* was struck out, and *ensuing Monday* inserted; and on motion of Mr. GILES, the words *ten days* were struck out, and *twenty days* inserted.

Mr. SKINNER moved, in order, as he said, to afford the people more time to reflect on the subject, before they were called to vote upon it, to strike out the word *November* and insert *March* in its place.

After some debate, in which the proposed amendment was advocated by Messrs. Skinner and Kelly; and opposed by Messrs. Carson, Fisher and Swain, the motion was negatived, without a division.

Mr. WILSON then moved to strike out all that part of the Report, which directs the amendments to be submitted to the people for ratification, and to insert "that such amendments be submitted to the next General Assembly, for ratification."

This motion was opposed by Messrs. Meares, Williams, Branch, Seawell, Speight and Gaston, and negatived, 108 to 6.

The Report was then adopted, and referred to the select Committee, for the purpose of forming the same into an Ordinance.

The consideration of the Article for districting the State for the election of Senators, was again called up ; when

Mr. OWEN, after explaining the injustice done to the county of Bladen, by the Committee who had reported the Plan on which this Article was founded, proposed an amendment, to remove the injustice of which he complained, by placing Duplin and Onslow in one district, Bladen in another, and Brunswick and Columbus in another, and thereby give Bladen a Senator.

The motion was lost, the votes being 43 in favor of it, and 54 against it.

The Convention then took up the Article, districting the State for the election of members of the House of Commons, which passed its second reading without objection ; and no objection to setting aside the rule, which forbids any Article being read twice on the same day, being made, this Article received its third reading also.

The Article relating to the eligibility of Senators, and the qualification of voters for Senators, also received its second and third readings.

As did also the Article in relation to an uniform Capitation tax, after undergoing an amendment suggested by Mr. SEAWELL, exempting persons from the tax, as at present, afflicted with bodily infirmity.

The Report in relation to the appointment of Justices of the Peace in future, was then taken up. The Report recommends that the several County Courts shall recommend to the Governor, for each Captain's district, not exceeding four for the district in which the Court-house is situated, and not more than three in any other, and the Governor shall commission them accordingly. A considerable difference of opinion appeared to exist on this subject.

Mr. GILLIAM objected to the course proposed in the Report, as it would be the means of placing great powers in the hands of a few leading Magistrates in a County, which might be abused.

Mr. DANIEL insisted on the necessity of making some change in the present system, which had increased the number of magistrates to an unreasonable extent, and had placed men on the Bench who were wholly unfit to perform the duties of that responsible situation.

Mr. GILES thought that the present system might be as well continued, as it appeared to answer the public purposes very well. He acknowledged that the number of magistrates might be larger than necessary ; but they cost the public nothing, and it was better to have too many than too few ; as he knew, even at present, that in some parts of the country, difficulty existed in getting magistrates to do the public business. Mr. G. therefore moved an indefinite postponement of the Report ; but be-

fore the question was taken, the hour having arrived for the Convention to take a recess, it adjourned.

EVENING SESSION.

The question of indefinite postponement, pending when the Convention adjourned, was taken without further remark, and decided in the affirmative, 56 to 23.

The following Article was taken up for its second reading :

“That no person who holds any office or place of trust or profit under the United States, or either of them, or under any Foreign Power, shall hold or exercise any office or place of trust or profit under this State: And no person shall be eligible to a seat in the Legislature, whilst he holds any office or place of trust or profit under this State, (any appointment in the Militia, and Justice of the Peace, excepted,) the United States, or either of them, or under any Foreign Power.”

Mr. SWAIN said he had no motion to submit, but suggested that the Article was too broad in its terms. As it stood, it would exclude Postmasters, however inconsiderable the receipts at their offices.

Mr. GAITHER replied that there was no class of officers whom it would be more proper to exclude, for there was none more immediately under the control of the General Government.

Mr. DANIEL said, he was not only for excluding Postmasters, but he would be willing to exclude Militia Officers and Justices of the Peace also, if they did not constitute so numerous a body, for he wanted every planet to move in its appropriate orbit. The powers not delegated to the United States by the Constitution, are reserved to the States, and they should be guarded with unceasing vigilance. If they were ever lost sight of, consolidation would ensue, and the liberties of the country were gone.

Mr. MOREHEAD proposed the following amendment as a substitute for the Article reported :

“That no person who shall hold any office, or place of trust or profit, under the United States, or under any of the said States, or under any Foreign Power, shall hold or exercise any office or place of trust or profit, under the authority of this State, or be eligible to a seat in either House of the General Assembly: *Provided*, that nothing herein contained shall extend to the appointment of any Officer in the Militia or Justice of the Peace.”

Mr. GAITHER said he could see no reason for the adoption of this amendment, as it only expressed the same ideas in a different set of words. He expressed his hearty concurrence in the sentiment advanced by Mr. Daniel.

Mr. MOREHEAD said he might seem hypocritical in the matter, but he preferred the phraseology of his amendment.

The question on the adoption of the amendment, was decided in the affirmative, and it was read the second time, and ordered to be printed.

The following Articles were read the second time :

Art. 1. All laws relating to the administration of justice, shall be uniform throughout the State.

Art. 2. The General Assembly shall have power to pass general laws, regulating divorce and alimony; but shall not have power to grant a divorce or secure alimony in any individual case.

Art. 3. The General Assembly shall not have power to pass any private law, to alter the name of any person, or to legitimate any bastard, or to restore to the rights of citizenship, any person convicted of an infamous crime.

Art. 4. Whenever a bill of private nature shall be introduced into either House of the General Assembly, it shall not be passed upon, until a tax of 10 dollars has been paid, by the person introducing the same, to the Clerk of the House, to be by him accounted for, and paid over to the Treasurer of the State.

MR. GILLIAM move to strike out the 4th Article. It struck him as a small business for the State to be taxing its citizens for the right of petition—many of whom, perhaps, whose grievances required redress, might not be worth 10 dollars. It would amount to an absolute denial of justice.

MR. CARSON, of Rutherford, offered an amendment to the motion of the gentleman of Granville, the object of which was to provide that the Legislature should pass no private law, without previous notice, on the part of the individuals to be benefited, of their intention to apply for such an enactment. This was a principle borrowed, Mr. C. said, from the Act of Assembly of 1796, which he considered useful, and which he desired to see engrafted on the Constitution, believing that its tendency would be to check private legislation.

MR. OUTLAW hoped the amendment would not prevail. He had no idea of the Legislature being made a theatre for the adjustment of matrimonial squabbles, however long a notice might be given.

MR. DANIEL said, that he heard the President of this Convention remark, a few days since, that he thought the 4th Article under consideration conflicted with the Bill of Rights, which declares that "the People have a right to apply to the Legislature for a redress of grievances." He admitted there was a collision, but they had assembled in their primary fundamental capacity, and could deal with that section of the Bill of Rights as they choose. The question was one of expediency. The tax was not desired for the sake of revenue, but to diminish private legislation. Members came to the Legislature, and either to show themselves off, or to curry favor with the people, bring

forward these private matters, which when matured, serve only to encumber our Statute Book. He would be the last man in the world to throw impediments in the way of the people petitioning for a redress of grievances, but he did think this would be a salutary regulation. If the object to be accomplished was likely to prove beneficial, the tax would be cheerfully paid; if not so, the Legislature should not be troubled with it.

MR. CARSON, of Rutherford, said he had no great preference for the amendment which he had submitted, but wished to introduce some remedy for the admitted inconveniences growing out of the redundance of private legislation. He could not, however, consent to tax a man's privilege—the right of application to the Legislature for redress of grievances, was an inalienable right, secured by the Bill of Rights. He thought that the incorporation into the Constitution of a provision something like that offered by him, would have a tendency to keep down private legislation; for it would only be in cases where important interests were concerned, that they would go to the trouble and expense of giving the necessary notice. It would be as clearly competent, he thought, for the Convention to impose a tax of 100 dollars, as of 10 pounds. Gentlemen seemed to suppose it impossible, so odious was the idea of an application to the Legislature for divorce, that there could be a case of this kind which required legislative interposition. But he thought there were such extreme cases, and he did not wish to tie up the hands of the Legislature so that they could not act.

MR. MEARES said, the Committee anticipated a division of opinion, when they reported the Articles. The inconveniences and expense produced by the system of private legislation which had existed for the last 8 or 10 years, were seen and admitted by all. There were from 100 to 150 private Acts passed at every Session, at an expense of from two or four hundred dollars a day, a large portion of which were not actually worth the paper on which they were written. All know that this species of legislation is the cause why the General Assembly sits so long. There were difficulties about the first Article, and perhaps it would be as well to strike that out. With regard to the second Article, he hoped there would be no difference of opinion. He was clear that the General Assembly should have nothing to do with individual cases of divorce and alimony. There were powerful and unanswerable reasons, why the delicacy of the marriage tie should never be lightly touched. None deny the power of the Legislature to pass general regulations on the subject, but individual cases are referable with much more propriety to the Courts.

With regard to the 3d Article, he was clear also in the opinion, that the Legislature should be allowed to exercise no such powers. Who, that was acquainted with the operations of that body,

had not seen the haste with which these laws were passed, without deliberation and without regard to their effect upon the rights of others. The idea, that the imposition of a tax on private legislation would conflict with the Bill of Rights, would not prevent him from adopting the principle. If the benefits to be derived from a private law are not worth 10 dollars to the individuals who desire its passage, he could see no reason why the State should be taxed at the rate of from 200 to 400 dollars to carry it into operation. The gentleman from Rutherford had alluded to the hardships which would arise in individual cases, if this tax were imposed. The apprehension was ill-founded, for wherever there was a case which really required legislative interference, and the parties were too poor to pay the tax, there was not a neighborhood in North-Carolina, where the sum would not be cheerfully subscribed to enable them to proceed in the mode prescribed.

Mr. MOREHEAD accorded with the object of the Committee, but objected to the mode. To engraft such articles into our fundamental law, was calculated, he thought, to reflect upon the character of the State. It would be concluded at once abroad, if the 2d and 3d Articles were in their present shape, that there must be a vast number of cases, of the kind referred to, to render such provision necessary. His idea was, though he had not reduced it to form, that the Legislature should have no power to pass a private law, on any subject which could be reached by a general law. If, however, the gentleman from Rutherford would withdraw his amendment for a moment, he would reduce his suggestion to form, and submit it. The sense of the Convention could thus be ascertained, and if they decided against his proposition, the other amendment would come properly in.

Mr. CARSON assenting, Mr. *Morehead* submitted the following, as a substitute for the whole four Articles:

“The General Assembly shall have no power to pass any private law to effect any object, that could be effected by a general law on the same subject.”

Mr. WILSON said, if a man went into Court with an application of any kind, he had to pay for it, and he saw no impropriety in their paying the tax prescribed in the 4th Article. It was time some scheme was adopted to put an end to this frivolous legislation. It was only, at the last session, that a Senator had introduced a bill to legitimate the children of an individual born in lawful wedlock! Gentlemen might smile, but it was no joke. He would not say from what county the Senator came, but he presumed the gentleman from Rutherford had heard of him.

Mr. WELBORN said, there was no analogy between the Legislature and a Court of Record, that the people should pay a tax to have grievances redressed. The primary object for which the Legislature met, was to redress *all* grievances, and to impose a

tax on legislation, was contrary to the principles of a free Government. The evils flowing from too great private legislation, ought to be remedied, but the only way to do so was to pass general laws, as suggested by the gentleman from Guilford.

Mr. HOLMES said, if there was any weight in the argument of the gentleman from Guilford, that the adoption of the Articles reported, would reflect discredit on the State, he thought the passage of some 200 private laws for legitimating children, and divorcing couples, would develop our profligate habits much more forcibly. The Superior Court has now exclusive jurisdiction in cases of divorce, and yet, at the last session, the only one of which he had personal knowledge, there were from fifteen to twenty applications for that purpose. Individuals came to the Legislature because they were not so well known here as they were at home, and the chances of success were greater. If the Convention would reflect for one moment, on the description of persons who apply to be legitimated, they must see that the tax proposed could not operate onerously on them. They are generally wealthy men who want their children legitimated, that they may bequeath their estates to them. A man could hardly steal a sheep, the meanest animal in the world, but in a few years he was applying to the Legislature for his restoration to credit. Every application of this kind, took several hundred dollars from the public coffers.

Mr. GASTON said, the amendment last proposed, went further, he presumed, than the gentleman himself apprehended.—The principle was excellent, but its effect would be to put down all private legislation; for he could not well imagine a case where a general law might not be made to answer the object intended by a private enactment. But there might be cases which would require private acts; in which a general law, though highly beneficial to one section of the State, might be exceedingly injurious to another portion of it. In that case, if the amendment prevails, a law must be passed which, as a whole, will be unjust, or a portion of the people must be deprived of the benefit which might result from a judicious private enactment.

Mr. G. said he was opposed to striking out the second and third Articles, but particularly the second, which combines a benefit of no ordinary kind for North-Carolina. It had been decided in the Supreme Court of Missouri, that an Act of the Legislature to divorce a married couple, was unconstitutional. It might be premature in him to give an opinion on the subject, for he might be called on to pass on the question judicially, but he was perfectly certain if the Legislature did possess the power, they ought *never* to exercise it. A case cannot be imagined in which they ought to interfere. There is a solemn contract entered into between man and wife, the sacredness of which, Heaven is invoked to witness—a contract, by which important rights

are secured to each party. The man vows to love, cherish and protect—the woman promises to render him happy to the extent of her power. Is it for the Legislature to undertake to single out an isolated case, investigate the circumstances, and declare that one of the parties has done something which authorises them to pronounce the contract void and of no effect? If they can do this—if, in a contract for marriage, they can release the parties, why not in a contract for the sale of land or negroes? He said it with respect, but an experience of many years, had convinced him that the Legislature, from the very nature of its formation, was the most unfit tribunal to adjudicate these matters. It is a numerous body, sits but a few weeks, and has no regular forms by which to ascertain the facts of the case. Mr. G. mentioned a case, to show with how little deliberation the Legislature sometimes acted in these important matters. Some years ago, being in Raleigh, but not a member, he went to the Capitol and found the Legislature engaged on a divorce bill, in which the names of more than one man and wife were embraced. A gentleman rose and moved to amend the bill, by adding the names of A. B. and C. D. of the county of ——. He said he had not been authorised by the parties to apply for a divorce, but he knew the facts connected with the marriage, and was certain that a dissolution of the engagement was desirable. It seems, that a young man, of genteel address, went to the county and married a worthy girl. His father-in-law sent him some time afterwards to Charleston with a drove of cattle. He sold them, lost the proceeds at a gaming table, and in the desperation of the moment, committed petit larceny. He was tried, convicted, and whipped. The family of the girl were ashamed of the connection, and were very anxious for a divorce. Will it be believed, that on this statement, without investigating the facts, they were divorced? He confessed he was horror-stricken, and wondered how some good men would feel, who should find, in looking over the proceedings of the Legislature at its close, that they were divorced from their wives, without an intimation of what was going forward. The Legislature ought not to be entrusted with this power at all.—The best interests of Society, as well as the injunctions of Holy Writ, demand that the marriage tie should be indissoluble, but by death. The certainty that the knot could not be loosed, would serve to impress most deeply the necessity of mutual forbearance, tolerance and kindness. It might operate hardly in a few cases, but individual hardships must not come in competition with the public good.

With regard to Alimony, the Courts have full jurisdiction. Any woman, who is treated with cruelty by her husband, can apply to the Court of her County, and have a separate maintenance allowed her. The Court will act upon a full knowledge of all the circumstances, but the Legislature may be influenced

by momentary impulses, or by the popularity of an individual. If the Legislature is to be clothed with power to take away a man's property to support his wife, why not to support his child? All these interferences by the Legislature, with private rights, conflict with the principles of free government. The Legislature is to lay down the law, and it is the province of the Courts of Justice to apply it. He hoped both the 2d and 3d Articles would be retained.

Mr. MOREHEAD had hoped, that when the gentleman from Craven stated that his amendment went further than he intended, that he would have gone on and pointed out the danger which was to arise from it. He concurred entirely in opinion with the gentleman, as to the necessity of restricting the action of the Legislature in these matters, but he could not conceive a case in which a general law would not embrace every thing intended to be effected by a private enactment. He would thank the gentleman to point out a case.

Mr. GASTON replied, and stated a case or two.

Mr. MOREHEAD could not see that they bore the gentleman out in his premises.

The question on Mr. Morehead's amendment was negatived.

The question recurring on Mr. Gilliam's motion, he withdrew it, and moved to strike out the first Article, which was carried. He then renewed his motion to strike out the last Article, which was also carried.

Mr. MEARES then moved to amend the 3d Article, by adding at the close of it, the following words: "but shall have power to pass general laws regulating these subjects." This amendment prevailed.

Mr. MEARES then proposed the following additional Article, to come in after the third:

"The General Assembly shall not have power to pass private laws on any subject, the jurisdiction of which has been transferred to the Courts of the State, or any other tribunal."

Mr. GILES was afraid that, in endeavoring to correct the evils of private legislation, they might introduce others. He thought they had already gone as far as safety or prudence dictated.

The amendment was adopted, and the Article, as amended, was read the second time, and referred to the Committee of Seven.

The Article to amend the 32d Section of the Constitution, by striking out the word *Protestant* and inserting *Christian*, being taken up for its second reading,

Mr. WILSON, of Perquimons, said, it was his intention to move an amendment of the Article, by striking out the whole after the first word, and inserting a substitute which he held in his hand. He entertained, it was true, but little hope of chang-

ing what seemed to be the settled purpose of the Convention; but standing as one of a small and proscribed number in this body, he meant the sinners, he should avail himself of the present moment to set forth his views briefly in relation to the 32d Section. He would endeavor to be consistent with himself. And as most gentlemen who had spoken upon the subject had given vent to their pious feelings, by discoursing like grave and learned Bishops, and as those who acted with him upon the present occasion were not *the especially favored of Heaven*, he would try to speak after the manner of men.

The 32d section of the existing Constitution enjoins "that no person who shall deny the being of a God or the truth of the Protestant Religion, or the divine authority of the old or new Testament, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any place of trust or profit in the civil department within this State." Who are excluded by this Article? *First*: All persons who deny the being of a God. This excludes all Atheists. *Secondly*: All persons who shall deny the truth of the Protestant Religion. This excludes Roman Catholics, Jews, Deists and Atheists. *Thirdly*: All who deny the divine authority of the old and new Testament. This excludes Quakers, and all others whose religious principles forbid them to bear arms in defence of their country. Many doubt the existence of men among us, who deny the being of a God. It is very certain, if there be any Atheists in this State, they are very few in number, and almost unheard of. It is to be feared, however, that should the Convention impose upon Atheism severe pains and heavy penalties, subjects would not be wanting for the stake and the rack. We are informed by history, that there was a time in the existence of some of the ancient Republics of Greece, when the law made no provision for the punishment of the child who should slay the parent—the crime being then unknown. Some law-givers, who, not content with enacting pains and penalties for the punishment of crimes and misdemeanors already in existence among them, launched into futurity and provided for the punishment of the crime of parricide. The consequence was, that shortly afterwards, the crime that existed before in the imagination of the legislator, now became of frequent occurrence. To do what we are forbidden by superior power to do, seems engrafted in the very nature of man. Witness the positive command of God himself to our first Parent, ADAM:—"Of every tree of the garden thou mayest freely eat; but of the tree of knowledge of good and evil, thou shalt not eat of it; for in the day thou eatest thereof, thou shalt surely die." But alas! Adam, just from the hands of the Creator, perfect in the image of his maker, ate of the fruit of that very tree, and sinned, and died; hence, all our woe. Need we then marvel, that man, degenerate man,

should still be bent upon mischief. Of late we have heard that Catholics are not excluded from office by the 32d Section. This opinion is at variance with the ordinary meaning of the word Protestant, and in direct opposition to the opinion entertained by the whole body of the people of this State from 1776 to the present day. The framers of the Constitution intended to exclude such persons who either then, or might thereafter reside in this State, holding doctrines adverse to the Institutions which they were about to establish. Now did they make use of such words as would carry out their intentions? At that day there were, as now, two grand divisions, to wit, the Catholics and the Protestants. The term Catholic, meant those Christians who have for their spiritual head the Pope of Rome—Protestant, those who dissented from the Pope's authority and protested against the supremacy of the Romish Church. These terms must have been well understood by the framers of the Constitution, unless it can be supposed that body of men were ignorant and illiterate; for the contrary of which, the Constitution itself affords abundant evidence. The Protestants were divided into numerous sects. The Baptists, Methodists, Episcopalians, Presbyterians, Moravians, and Quakers, were well known by the general term of Protestant. Atheists, Deists and Jews, disbelieve the truth of the Protestant religion, but they are excluded by other parts of the 32d Section. We cannot, therefore, suppose them to be required to believe in the truth of the Protestant Religion, when other clauses of the Section had denounced them for their unbelief in Christianity. It seems, therefore, that that part of the 32d Section which requires a belief in the truth of the Protestant Religion was intended to exclude, and does actually exclude, Roman Catholics from office in this State. It was thought at that day, as it is now thought by some, that Catholics owed paramount allegiance to the Pope of Rome, and that as the members of that faith believed in the infallibility of the Church, in a conflict between this State and the Pope, members of the Roman Catholic faith would be bound to take sides with their Spiritual Head, to whom they owed paramount allegiance. If this was not the reasoning of the framers of the Constitution, they had no good reasons. If these were their reasons, they were formed in an erroneous view of the Catholic doctrine. He said, no good reasons, because in every country they had shewn themselves as patriotic and as true lovers of freedom as the Presbyterians or any other body of Christians. If they honestly entertained their notions of the Catholic faith, they were in an error, and duty required us to correct it. But, whether the fears of the framers of the Constitution were with or without foundation, whether with a full and right understanding of the Catholic faith, whether with an erroneous opinion of the obligations existing between the lay members of the Romish faith and their Spi-

ritual head, or whether by a wicked spirit of persecution, which is too apt to be formed wheresoever high professors are actors among men, the word Protestant was first in the 32d section of the Constitution, and there it has remained from 1776 to the present day. It was placed there, to exclude Roman Catholics, or it means nothing. They who "deny the divine authority of the old or new Testament," are excluded. Jews are not named in the Constitution, yet no man will be found so regardless of the common meaning of the English language, as to say, that this clause does not most unequivocally exclude from office, the Children of Israel. Why? Because they do not believe in the divine authority of the new Testament. Yet, the language in reference to the Jews, in the 32d section, is not more clear and pointed than that which is aimed at the Catholics. Previously to the meeting of the Convention which formed our Constitution in 1776, the Colonies had been invaded by a hostile foe—arms had been taken up by the Colonists, and blood had been shed in the battle-field. In this State, at that time, resided a small Society of Moravians, or *Unitas Fratrum*, and several numerous bodies of Friends or Quakers. They were a people of peace. Their religion forbid them, under the penalty of incurring the everlasting displeasure of HIM, whose laws are from everlasting to everlasting, to take up arms upon any occasion, either to repel an invasion or to quell an insurrection. The laws of the "Prince of Peace," they hold more binding than the ephemeral laws of man—the punishment for the violation of the laws of mortals endures but for a season, while the violation of Heaven's laws, unrepented, forever and ever. They say, that he that in battle is slain, has little time for repentance. Sublime precepts! but, however much we may admire them, either in theory or when carried out into practice, no one can entertain a doubt but that when our land is trod by the feet of merciless, ravaging, hostile invaders, *these* Religious principles are incompatible with the freedom and safety of the State. With reference, then, to whom, was that clause in the 32d section inserted, which says, "Or who shall hold Religious principles incompatible with the freedom and safety of the State." Though the war of the Revolution raged from 1775 to 1782, these peaceful people uniformly refused to bear arms. Suppose all Americans to have become converts to this faith, shortly after the adoption of the Constitution in 1776, what would have become of the freedom and safety of the State? Scarcely should we yet have paid the penalty which British vengeance would have exacted from us, unless we are so vain as to believe that Heaven would have interceded especially in our favor, to repel the ravaging foe, or to make easy the yoke that would have been placed upon our necks. To refuse to bear arms, in the opinion of the framers of the Constitution, by reason of scruples of conscience, was to hold Re-

ligious principles incompatible with the freedom and safety of the State. If the Convention did not mean to exclude Quakers and Moravians, with reference to whom did they insert that part of the 32d section? He had no very strong preference for any body of sectarians, and as few prejudices against them as most persons. He believed, that the Christian Religion was so deeply rooted in the Institutions of the country, as not to stand in need of the aid of the law for its protection.

But it is submitted to the discretion of this Convention, to amend the 32d section; and an amendment has been offered in the following words to wit:—"That no person who shall deny the being of God, or the truth of the Christian religion, or the divine authority of the old or new Testament, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office of trust or profit in the civil department within this State." This amendment, after a most able, learned and eloquent discussion, had passed its first, and now came up for its second reading. It seemed to him, that it behooved the Convention to examine and weigh well this amendment before it should be incorporated in the fundamental law. If there were errors in the old Constitution, and if the 32d Article be among those errors, would it not be advisable, either not to touch it at all, or if touched, to put the axe to the root of the tree. Upon the present occasion, as upon all others in legislating, unless he was satisfied that good would result from our action upon the 32d section, he felt himself bound to submit to existing evils, rather than try an experiment which he awfully feared and sincerely believed would bring down upon the people greater ones. This Article, he thought, ought never to have had a place in the Constitution; but there it was, and had been since '76; he believed it had done no very great harm, and was certain it had done no good. Its tendency, he thought, had been to promote hypocrisy—an offence as hateful as it was mean. He was very clear that the whole section should remain, unless an amendment could be adopted that would put all men among us, that may be found trust-worthy by the electors or people, upon terms of equality in asking for and receiving office. Let those who confer office, judge of the qualifications.

Entertaining these views upon the first reading of this amendment, the other day, his vote was recorded against striking out the word Protestant. He had been an attentive though silent hearer of this whole debate. Arguments had been advanced so clear and so strong, and in such lofty strains of glowing eloquence for striking it out, that it seemed to him that further resistance to its abrogation could not be made, and, if he had correctly understood gentlemen from every quarter of the State, in this body, nearly all were convinced of its inutility and injustice; but gentlemen have two ways of getting round its destruc-

tion. Certain gentlemen say it is a dead letter, and entirely harmless. Of these, he would ask, if there was a dead branch in the tree, why not remove it? It is conceded to be useless; then why retain it with so much pertinacity? It seemed to him that gentlemen were not entirely candid and sincere in the support they gave their dead letter.

But another and more numerous class of advocates for the retention say, they are instructed—that public opinion is so strong at home, in favor of the 32d section, that they *dare not* disregard the voice of their constituents. Now he was one, who would go very far in carrying out whatever he undertook with good faith. He had never said much about instructions by the people to their Representatives, but he thought there was no great difference between the contracts made between the people and their Representatives, and the ordinary bargains made between citizen and citizen. The man who employed an agent to transact for him business abroad, could prescribe such terms as might be mutually agreed upon between them, and so the people in appointing their Members of Assembly, and Members of Congress or Delegates in Convention, may prescribe such terms as may be mutually agreed upon, and he who breaks the bargain, whether it be principal or agent, in the shape of an individual, a Member of Assembly, Member of Congress, or Delegate in Convention, is faithless and not trust worthy. The election under which he came here was holden but a very few days ago, and hardly any of us have had any means of acquiring a knowledge of the feelings and views of our constituents since the election.

Then, gentlemen are here “fresh from the people.” No after-meetings, called for the purpose of instructing, by small knots of politicians, gotten up at court-houses, taverns or grog shops, but a full burst of public opinion at the Polls in favor of its retention. For what; why this burst of public opinion? He put it to gentlemen from every quarter whether they were instructed to retain the 32d section, to exclude Jews, to exclude Quakers—yes, the harmless Quakers—to exclude Deists—to exclude Atheists—to exclude any one but the Roman Catholics? He put it to gentlemen from every quarter to say, whether public opinion was roused at home against the Jews, the Quakers, the Deists, the Atheists? He put it to gentlemen from every quarter to say, whether there existed the least excitement in any part of the State against Jews, against Quakers, against Deists, against Atheists? Against whom, then, was the excitement? He defied gentlemen to say, that there was the least hostility in the public mind against Jews or Quakers. The only class against whom there was any excitement in the public mind was the Roman Catholics, and this was known to all. None could deny it. That portion of the people who busied themselves about it,

wished it retained as a wall against what they supposed to be the damnable assaults of the Romish Church upon the freedom and safety of the State. Have instructions been obeyed? Were gentlemen sincere in their professions. The word *Protestant*—the bulwark against Papacy—has been stricken out, and the word *Christian* substituted. For what? To let in the Catholics. If the voice of the constituent be binding, then has that been done, which the people forbid to be done, and which ought not to have been done. He trusted in God that this would not be set up as a precedent in the doctrine of instruction; if it were, there would, in future, be no danger of the “Representative being palsied by the will of his constituents.” He that knoweth his master’s will and doeth it not, shall be beaten with many stripes.

Gentlemen, it seemed to him, had a matter of some difficulty to settle with other portions of the community. Why should Catholics be admitted to a participation in the offices of trust and profit in this State, while Jews, Quakers and Deists are excluded. Is any one here prepared to say to his constituents that the Catholics have been found more trust-worthy, than the peaceful Quakers or the persecuted Jews? There are but few Catholics in this State, still fewer Jews, while the Quakers are numerous. He said he would take the liberty of saying, for he was of a Quaker descent, that in all the private walks of life, and all the social relations of life, there was not on earth a purer people. They were truly a people of peace and good works. These observations he had made, not to disparage the just claims of the Catholics, but as a matter of sheer justice to the *proscribed Quakers*.

Mr. W. said, “the Friends” held some notions that he did not approve. He had been at war with them, on the question of negro slavery. Although their opinions on this point were palpably wrong, yet no one acquainted with them, and with their Religious principles, can for a moment believe, that their Religious prejudices either against bearing arms or against negro slavery, weakened their integrity; for they were strict observers of their agreements, and punctual performers of their contracts, the world over. He knew nothing of his own knowledge, of the Roman Catholics; but as far as he could gather from books and men, they were pretty much like all other denominations, having much in their system that is “of man,” and not quite so much that is “of God,” as all sectarians are disposed to arrogate to themselves. As an Institution suited to the various feelings, and frailties, and necessities of man, he believed no Church on earth had superior claims. Imperfections, impurities and errors will exist in all institutions, whose superintendence is subject to man’s control, and whatever may have been the origin of the Catholics, the Presbyterian, the Episcopalian or the Wesleyan system, he hazarded nothing in saying,

that their government was now in the hands of those who see and feel, as sinful man sees and feels. He feared, and he thought there was some evidence to support the opinion, that the present excitement against the Catholics was hatched by some aspiring, designing, ambitious Priest. Why had that partial, trashy book, called *Fox's Martyrs*, been spread far and wide? Were the outrages therein related, of recent occurrence, or were the atrocities therein varnished and blazoned forth, the cruelties and barbarities of a dark, superstitious, and bigoted age of persecution, called up from the slumber of ages? Who have been active in putting in circulation that tissue of falsehoods, "Six-months in a Convent?" Who are the victims of this stuff? The honest and confiding part of the people, over whom the Priesthood, as well in this country as in every other, have exercised an uncontrolled influence. Upon this excitement, the small and crafty Politicians of the State seized, fanned it into a flame, hoping thereby to work their passage into the Convention; well knowing that the sober sense and sound judgment of the people, if left to act coolly and unexcited, would not discover their fitness for a seat here. Were the Catholics numerous in our State? Scarcely, did a Chapel exist. Was there a probability, that Catholic emigrants would come to this State? There was no new field open to enterprize here; very few foreigners found it to their advantage to come to North-Carolina; nor could it be expected that they should, unless some great and unexpected change takes place, whereby men make a competency or subsistence easier than heretofore. The rage now was, and he much feared would continue to be, to leave the State for more favored regions.

But, Mr. President, the word "Protestant," from the length of time it has existed in our Constitution, is venerated by the people, and has acquired something like certainty in its meaning; not so with the word which is now put in its place. Nothing is more profitable to the people, in any Government, than certainty in the law. The attainment of a knowledge of the law is difficult, when its provisions are couched in the clearest language; a competent knowledge cannot be acquired when it is clothed in words of uncertain and indefinite meaning.

Where can two professors of Christianity, belonging to different sects, be found, that will agree in the meaning of the word "Christian." True it is, that all sectarians of this country claim to be Christians, but whenever the issue shall be made up to try whether an individual is a Christian, the defendant will, if governed by the laws of self-preservation, excuse from serving on his jury, all members of the accusing body. Unfortunately, in Religious controversies, the learned and intelligent part of mankind are as much under the influence of bigotry and fanaticism as the ignorant and illiterate. He held in his hands a

string of Resolutions, adopted by a Convention of Presbyterian Clergymen, recently holden at Pittsburg, Pennsylvania, which he would take the liberty of reading:

1. *Resolved*, That it is the deliberate and decided judgment of this General Assembly, that the Roman Catholic Church has essentially apostatized from the Religion of our Lord and Saviour Jesus Christ; and, therefore, cannot be recognized as a Christian Church.

2. *Resolved*, That it be recommended to all in our communion, to endeavor, by the diffusion of light by the Pulpit, the Press, and all other Christian means, to resist the extension of Romanism, and lead its subjects to the knowledge of the truth, as it is taught in the word of God.

3. *Resolved*, That is utterly inconsistent with the strongest obligations of Christian parents to place their children for education in Roman Catholic Seminaries.

Now, these Resolutions did not emanate from a body of ignorant and illiterate men, suddenly drawn together by some political leader, or caucus-monger. No such thing. Very different was this body. A council of grave and learned Divines, whose minds were stored with treasures of learning, gathered together by the toils of many years, enlightened and chastened by long reflection and deep meditation on Heaven and heavenly things. This body, aided by human learning, as it was, and especially in the favor of Heaven! determined that Roman Catholics are no longer christians! Thus, we see a sect, claiming for its foundation the Apostle Peter, who saw in flesh the Saviour of men—one to whom Jesus of Nazareth said, "And I say unto thee, that thou art Peter, and upon this Rock I will build my Church, and the Gates of Hell shall not prevail against it; and I will give unto thee the keys of the Kingdom of Heaven, and whatsoever thou shalt bind on earth, shall be bound in Heaven, and whatsoever thou shalt loose on earth, shall be loosed in Heaven,"—a sect more numerous, which has wielded more, and still continues to wield more influence over men, than all other Christian denominations put together—a sect that profess to believe the whole of the Old and New Testament to be of Divine authority—a sect that have for fifteen hundred years been universally called and believed to be Christians, proscribed and put under the ban by a body of Sectarians that but yesterday sprang into existence—whose numbers are small, and confined to three or four Governments. What evidence have they given the world, that they and their's are more in the favor of Heaven, than that very body whom they declare have "apostatized?" Short sighted mortals! If the everlasting God sees and judges and decrees as man, sectarian man, sees and judges and decrees, who will be saved?

Now, by way of illustrating his opinions of the uncertainty of the meaning of the word *Christian*, he would call the attention of the Convention to a few cases—supposed cases, to be sure—such, however, as might not only occur, but such as he feared

would be of frequent occurrence. The power of trying impeachments is conferred upon the Legislature. Let an officer be impeached for want of the Christian religion. It is known previously to the election of members of the Assembly, that an officer (a Judge) who holds his office from the Legislature, is to be impeached at the ensuing Session; that the charge against him is, that he is not a Christian. Let the Legislature be composed, as it usually is, of members some of the Baptist faith, some of the Methodist, some of the Episcopalian, not a few of the Presbyterian, with a sprinkle of non-professors, (sinners.) As things now go, we may suppose some of these orders would then, as they have now, send their members *PLEGGED, instructed*, with an eye single to the defence of what they may please to call Religion. The General Assembly, upon its meeting, is organized into an inquisitorial tribunal; the accused is arraigned before the bar of the House; he is called upon for his defence; he steps forth and boldly discloses, that in faith he is a Universalist—that Jesus Christ came into the world, took upon himself the sins of the children of men, and died upon the cross to make a propitiation for the sins of the world, that all (not a part) might be saved—that the wicked deeds of the body are punished in the flesh, and that he did not believe in future rewards and punishments.—Would the General Assembly trouble themselves with further evidence or argument? If what we have lately heard is to be relied upon as a precedent, the pious Assembly would forthwith cry—“Away with him—away with him”—he is no Christian—let his office be vacated, and his place given to another. Though the officer might be as competent in qualifications, and as pure in the practical discharge of his official duties as ever mortal was, a judgment of condemnation would be rendered. Who can doubt it? What? a man, a Christian, who does not believe, that beyond the grave, there exists everlasting bliss and eternal woe? Where the elect bask in one everlasting round of unspeakable joy, and where the condemned rove in the agonies of eternal despair? The Universalists call themselves Christians, and according to their faith, by the virtue of Christ’s blood, all men are saved. The Roman Catholics, according to Presbyterian faith, have apostatized, because it is said their Priesthood profess to forgive whenever the issue is submitted. Universalists will come under the ban of proscription, because they profess to believe that Jesus Christ took upon himself the sins of the world and released *all* mankind from the bondage of sin and transgression. The complaint against the Catholics is, that their Priests claim and exercise too much power; that against the Universalist is, that they give too much efficacy to the suffering and blood of Christ.

Again, what would be the fate of the Unitarian, who, like the Universalist arraigned before this dread tribunal—this inquisition, for in truth that is the proper name—should step forth and declare that he believed in *one* God, but that Jesus Christ

was not that one; but that the doctrines taught by Jesus Christ among men made them better and happier in this life—made the way easier and plainer to Heaven, and, if practiced, were sufficient for salvation—that none can participate in the advantages of the Christian system without a strict adherence in practice to its precepts. Would the Assembly wait for further evidence than the confessions of the accused, that he did not believe in the Trinity, and denied the divinity of Jesus Christ? The Unitarian, like the Universalist, would be denounced, condemned and disfranchised. The Unitarian, unlike the Catholic and Universalist, believes, that to reach Heaven, he must labor long and arduously in the practice of the precepts taught by the man Jesus, and this would be his condemnation. Mr. W. said he would go still farther, and take the liberty of saying, that very body, which had recently sat in judgment upon, and condemned the Catholics, may, themselves, ere long, come under the ban. Who has forgotten their Sunday mail efforts? Let the public mind be charged with excitement against this body of sectarians, upon the supposition that they are encroaching upon the rights of all, and whether the charge be rightful or not, the inevitable result will be a combination of all Religionists against them; and then would Presbyterians be condemned for their doctrine of election—yes, election—this word *election*, is the key of the whole scheme. The Heathen is good to his own; we want no evidence to prove that Catholics would, if clothed by the law, set up for supremacy.—The Presbyterians have passed sentence against the Catholics, and this Convention is about to clothe them with inquisitorial power, if the uncertainty exists in the meaning of the word Christian, as above illustrated. In a contest for power, who is orthodox? The majority. In a contest for power, who is heterodox? The minority. It is too often the case, in the heated imagination of the devotee, the fictions of the fevered brain pass for the illumination of the Holy Spirit. These fictions become positive injunctions—the communion of many together, of this stamp, works confirmation and produces enthusiasm—in the whole mass, then, commences the work of carrying into practice the injunctions of the Deity. Nothing is wanting now to kindle the flame, to fire the faggot, to erect the stake and build the rack, but the aid of the law. Ministers, to execute the laws, will never be found wanting, when men think they are doing God service in scourging and punishing those whom high professors proclaim to be blasphemers. How shall mortal tribunals decide between these bodies, contending among themselves about what is and what is *not* acceptable to the Deity? These contests, from the nature of man, and man's weak understanding, must necessarily arise in every country, where the mind is unshackled by human laws. How to prevent injury from these contests, "*hæc labor, hoc opus est!*" but difficult as it was, he thought the way was not unessayed. The Pilgrims to this land had shown the way

by example ! it had been followed in numerous instances, and no inconvenience, but much positive good, had resulted from it. "That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience." Let our system of Laws be so framed, that each one may enjoy this right, in as free and ample a manner as may suit his taste, so that he does not injure another ; and let not the puny arm of man be uplifted by the law to avenge insults offered the Deity. Let no man, or set of men, arrogate to themselves the right to judge between man and his maker. In all ages and countries, where men have erected tribunals to take cognizance of offences, not between man and man, but between men and God, the Government has become a tyranny ; the Priests, bigots ; the Judges, brutes ; and the People, hypocrites. What evidence have we, that one body of sectarians is higher in the favor of Heaven, than another ? The rain falls upon the just and unjust. The working of miracles by any of these sects, would put to flight all doubts of their orthodoxy—The withholding the bounties of Heaven, by the Great Judge of the quick and dead, from infidels and the apostatized, would justify the denunciation of pious men. All say they have their warrant for their faith from deity. Heaven has given to no one any special authority for its favor—Charity, therefore, requires us to believe, that these people have taken their own opinions for the dictates of the Holy Spirit, and though erroneous, if left free to be combatted by reason, unaided by law, they will prove harmless.

Mr. W. said, he had been brought up by Parents, one of whom made profession of Religion. Efforts had been made to ingraft into his mind the doctrine of Fox, Penn and Barclay, and much better had it been for him, had the attempt been successful ; but from the weakness of the flesh, the efforts of a tender Parent failed. He had, however, derived advantage from these efforts, among which was a knowledge of the Bible, the historical part of which had been his delight in boyhood. In that Book, the reader is introduced to God ; by that God he is taught that there is none other but HIM ; that to set up another, would draw down upon the children of men the displeasure of their Creator. This God created all Heaven and Earth, and all that therein is ; throughout that Book, all the mighty things done, are the works of the God of Abraham and of Isaac and of Jacob ; throughout that book, the most terrible anathemas are fulminated against all who have any other God save the God of Abraham and of Isaac and of Jacob, who made the Red Sea divide, that the Israelites might pass through on dry ground—the God of Moses, who prostrated the walls of heathen Jericho.

Is this Book the foundation of the Christian faith ? Jesus said, he came not take away the law, and the prophets, but to fulfil them. This is the faith of the Jew, but he is proscribed

and condemned. Who is prepared to say, that there is not at this very moment among us, some Son of Abraham who, fired by genius and prompted by the most laudable ambition, may, in the course of the next thirty years, by dint of his extraordinary talents, cultivated and nurtured by the most studious and unre-mitted industry, occupy the topmost place in the affections of the State. Is it unlikely? The man to whom public opinion has given preeminence in this State, and rightfully too, has been for the last thirty years a conscientious member of a body of Christians, few in number and *proscribed in this State*. The Deist is disqualified on account of his belief in one God; and his disbelief of the divine authority of the Old and New Testaments. The existing Constitution is thought to have been as much or more the work (the 32d section excepted) of WILLIE JONES, than any other one individual, yet under that very charter was he proscribed by the bigotry of the framer of the 32d section. Shall a clause be retained in our Constitution which would exclude from office a JONES, the Champion of the Whigs in the Convention of 1776, that formed our State Constitution? Should the Quakerism of a PENN, the Unitarianism of an EVERETT or an ADAMS, disfranchise them in this State? Most gentlemen had given, in the course of their remarks, something like a confession of Faith. The advanced hour of the day, the length of time he had already occupied, and the impatience manifested by the Convention when he first rose, admonished him to be brief. These reasons, and not a desire to cloak or cover his opinions, or to shrink from a full and candid disclosure of them upon the house-top, would prevent his going into a confession of his Faith at this time; but he would take the liberty of saying, in one general observation, that the Faith, the Religious Faith of all, was mere matter of opinion; that every man had, and ought to have, permission to form his own for himself. Like the venerable President of this body, he did not believe that the belief of an individual in future rewards and punishments, had much influence upon his actions.

"In the day that thou shalt eat thereof, thou shalt surely die." The words of Deity, spoken to man, perfect man, face to face. How long, were they obeyed? Alas for man, the first tempter that came, made Adam disbelieve his Maker's laws. He had some experience among men; his profession had brought him into contact with persons of every grade in this State; he had defended the thief, the burglar, the murderer, the violent and high-handed; he had taken some little trouble in endeavoring to find out the Faith of that unfortunate class of men, whose advocate at the bar he had frequently been, and as yet, he had never defended one who even doubted the being of God, or denied the divine authority of the Old or New Testament. Temporal punishment was what the great mass of men feared,

and not eternal. Present good is the object of most men's pursuit, and not happiness beyond the grave. So thoroughly satisfied was he, from the examination he had made into other men's lives, as well as his own, that he could say in truth for himself, and he believed on behalf of the few with whom he acted in this body, that nothing he could say upon Religion would be gracious in the sight of Heaven; but that all he ought to presume to say to his God, would be like the poor Publican of old, to smite his ing, therefore, that the 32d section was radically wrong, and in breast and say, Lord have mercy upon me a sinner! Believing direct opposition to the 19th section of the Bill of Rights; believing that the striking out the word *Protestant* and the insertion of the word *Christian* will not cure the injustice of the clause; and believing that God would, regardless of the pigmy resistance of the world, the flesh and the Devil, carry out his great purposes, spread that light abroad by which he intends to save his creature, man, without the aid of short-sighted mortals, he should vote against the amendment of the gentleman from Wilkes. The amendment which he held in his hand, left Religion as it is in the 19th section of the Bill of Rights, untouched—as free as the air we breathe—a matter between every man and his God, It was as follows:

Resolved, That all Freemen, having the qualifications of age and property prescribed in the existing Constitution, and who, previously to entering upon official duties, shall take the oath of allegiance to this State, and the oaths to support the Constitution of this State and the Constitution of the United States, shall be capable of holding any office of trust or profit within the Civil department of *this State*.

What is it to me, as a citizen of North Carolina, whether my neighbor believes in one God or in twenty; it neither picks my pocket nor breaks my shin. This was the language of Thomas Jefferson, one to whom this country is more indebted for its Civil and Religious liberties than all the Priests in Christendom; and now, in conclusion, he would say that he had given his honest opinions, not at such length as he would, were it not for the great desire the Convention manifest to adjourn *sine die*, at an early day.

He would, as the last argument he should advance, call the attention of the Convention to the great fundamental principle of this Government, that the people had a right to, and were capable of self-government. He had heard various gentlemen assert, that propositions advanced here, were a libel upon the government—a slander upon the people—but he thought all other libels and slanders fell far short of that contained in the 32d section. What is it? That no one shall be elected to any civil office of trust or profit in this state, unless he shall be such as shall be pronounced a Christian by the sects within the State. Disguise it as you will, this is the substance. Now for the libel. The people have a right to govern themselves, and are

capable of self-government; they have a right to elect their Members of Assembly, and the Assembly must elect Judges and other officers. But the Assembly men are not Theologians and Divines; the Judges of the Superior and Supreme Courts are not Theologians and Divines. The Christian sects, and the Theologians and Divines of these sects, are divided among themselves in agreeing upon who are Christians, and what it is that constitutes Christianity. Now there are fears entertained by this Convention, that the people will, upon some occasions, elect and judge to be trust-worthy, these horrid Jews, Quakers, Deists, Universalists, Unitarians and Roman Catholics; and for that reason, this pious body have disfranchised them. But the people being mere laymen, and consequently unlearned in Divinity and Theology, may some time be so wrought upon by men of superior eloquence and talents, as to mistake some one candidate, who in fact is a Deist, or Catholic, or Quaker, or Unitarian, for a Christian. A sad mistake, it is true! but such may be made. The Legislature may be composed of the same materials with the people, and it may be wrought upon by the same reasons which influence the lay-gents. The Legislature thus composed of lay-men, elect three Citizens for Judges of the Supreme Court. These Gentlemen's opinions upon religion are all known—they are Catholics; the whole matter is discussed, and they are solemnly determined to be Christians. The zeal of some malcontents gets up an impeachment at the subsequent session. The sect of the accusing party has gained strength, but not enough—The impeachment is tried, and the impeached acquitted; but the discontent makes head-way; the body of sectarians to whom the Judges' Religion is obnoxious, go on stirring the elements of discord, fanning the flame, until the requisite number is gained in the Legislature, and the Catholic Judges are impeached, condemned and disfranchised, because they are not Christians. Now, he would ask who had governed? The people, or the Clergy? The people had decided, and the Clergy had set aside their judgment. This Convention had decided that Catholics were Christians, but in the case which he had put, a body of Sectarians had reversed the opinion, and the deliberate judgment of this Convention. He would ask, if it was not a direct libel upon the people to say of them, that they require for their guidance in legislating, the aid of the Clergy? What, to say of the good people of this State, that they are capable of governing themselves, and in the next breath, inform them, however, that none is trust-worthy, unless he be a Baptist, a Presbyterian or an Episcopalian? What guaranty have we, that these very people will not next turn upon each other as they have upon the Catholics?

Efforts to retain the 32d section, and the amendment already made by inserting the word Christian, is, if there be any genuine, pure, holy Religion in the land, a libel upon that Religion.

What, have Sectarians so little faith in the intrinsic merit of Christianity, that they fear it will be over-run by infidelity in this land? For shame! that men should attempt to hide a wicked, persecuting spirit—a miserable scramble for power, behind such thin-woven subterfuges!

Mr. W. having concluded his remarks, the question was taken on the adoption of his Amendment, and decided in the negative, 76 to 32. The vote was very similar to the preceding ones on this subject, and it is unnecessary, therefore, to insert it here. The Convention then adjourned.

FRIDAY, JULY 10, 1835.

After Prayer by the Rev. Dr. M'Pheeters,

Mr. GARY presented the following Resolutions, which lie on the table till to-morrow:

Resolved, That this Convention tender their thanks to the Authorities of the Presbyterian and Methodist Churches—the former for the use, and the latter for the offer, of their Church for the sittings of this Convention.

Resolved further, That the Members of this Convention present their thanks to the Rev. Dr. M'Pheeters and the Rev. Mr. Jamieson, for their services as Chaplains to this Convention.

The Convention took up the Article in relation to Private Legislation, and after amending it, passed it to a third reading.

They next considered the Report in relation to the appointment of Militia Officers; when, on motion of Mr. GUINN, the Article was amended, to read, “The General Assembly shall have power to pass laws regulating the mode of appointing and removing Militia Officers.”

The next Article related to the biennial meeting of the General Assembly, which passed its third reading.

On motion of Mr. GASTON, the Convention then entered on the consideration of the Ordinance providing for the ratification of the Amendments, which, after undergoing sundry amendments, was ordered to a third reading.

Mr. GASTON asked leave, while the President was absent from the Chair, to lay a Resolution on the table, to be called up as one of the last acts of the Session.

At 1 o'clock, the House took a recess till 3 o'clock.

EVENING SESSION.

Mr. GASTON, of Craven, from the Committee appointed to examine, correct and classify the several Articles of Amendments to the Constitution, passed by the Convention, reported the same, engrossed and drawn up in proper form, arranged into four Articles, which he read to the Convention.

The PRESIDENT then stated to the Convention that the question would be on the enrolment of the whole; that the Articles each having passed its three several readings, at all which readings it had been open to amendment, were now formed, according to the Rules of the Convention, into one body, like a bill on its final passage, and would, in that form, be passed upon.

Some objections being made as to the difficulty in which some members were placed, who, though they approved of part of the amendments, disapproved of others, the President declared that the vote must be taken on the Amendments as a whole.

Mr. SEAWELL appealed from the decision of the Chair.

On this motion the Yeas and Nays were called.

Mr. GASTON said, upon the point of order, it appeared strange that there should be any difference of opinion entertained. The rules on this subject were as plain as they could be made. Each Article was directed to be read three times on three several days, at each of which readings it was open for discussion and amendment; after this, the rule states, they shall be referred to a Committee of Seven, to be corrected, classified and formed into a body for the final action of the Convention. The Committee have acted on the subject, and now present the Articles in the form required, and the question before the Convention will be on their passage in this form.

Mr. SEAWELL said, he understood the matter differently.—He thought this Committee would have so arranged every Article that the sense of the Convention might have been taken on each. He did not think this question had any likeness to a bill. The Report which has been read, embraces a variety of subjects, some of which he approved, and others he altogether disapproved; and yet he was called upon either to approve or disapprove of the whole in a body. To this course he objected.

The question was then taken on the appeal which had been made from the decision of the Chair, and the result was 87 votes in support of the Chair, and 11 against it.

The question was then stated to be on the Amendments in a body, as reported.

Mr. MEARES could see no difference between this question and the vote on a bill in which several amendments had been made, and on which different opinions had been entertained. On this occasion, though there were amendments which he did not approve, he should find no difficulty in voting for the whole, to be submitted to the People for their ratification or rejection. In doing this, he did not bind himself finally to vote for the ratification, or to advocate the amendments before the People. Every member would act, in this respect, according to his best judgment.

Mr. OUTLAW felt himself in a situation somewhat like that of the gentleman from Wake (Mr. Seawell) in thus being called

upon to vote for the amendments in mass: And though he should be for placing the whole before the people, he should, he believed, vote against the final ratification of the amendments.

Mr. WILSON said, he should vote in favor of submitting the amendments to the people; but in doing so, he should not consider himself as estopped from voting as he judged proper, when the question was presented to him as one of the People.

Mr. GASTON remarked, that the views taken of the subject by the gentleman from Perquimons (Mr. Wilson) was a correct one. We, as members of this Convention, have been sent here to do certain things, and to act upon others according to our discretion. We have brought our business to a close, and are about to submit our work to the people for their acceptance or rejection. In voting on this subject, no member binds himself to support every Article agreed upon, or even to accept the whole, except he judge that the advantages will overbalance any disadvantages that may arise from any part.

Mr. JACOBS said he had great objections to many parts of the amendments proposed, and could not believe they were in conformity with the instructions under which we have convened. He did not impugn the motives of the Delegates of the Convention—far, very far, indeed, from it—his section of country had been driven to the wall, and he thought without licence, without authority; he therefore could not recommend them to his constituents, and particularly as they were opposed to many, and perhaps all alteration of the existing Constitution—he felt no hesitation in entering his Nay to them.

Mr. McPHERSON did not think the question had been presented in its least objectionable form. He should not object to submit these Amendments to the People for their ratification or rejection; but he did object to recommending them for ratification, which he thought were the words used in the Report.

Mr. GASTON said, there would be no objection, he presumed, to any amendment in the phraseology used, that would meet the views of the Convention.

The alteration suggested, was accordingly made.

The question now being on agreeing to the Report, and the Yeas and Nays having been called,

The PRESIDENT rose and asked the indulgence of a few words before he gave his vote on this question. He said he could not vote in favor of submitting those Amendments to the people, as he had two decided objections to them—the one was the doing away of annual elections, which he considered a fundamental principle of Republican Liberty; the other was, the change made in the Election of the Governor. He greatly preferred that that election should have remained in the General Assembly, where it is at present. He was sorry that he could not concur in approving the work of a body of men from whom he had received uniform kindness and attention.

The question was then taken on agreeing to the Report, and carried, 81 votes to 20. The Yeas and Nays were as follows :

YEAS.—Messrs. Arrington, Adams, Bowers, Brittain, Bailey, Birchett, Brodnax, Cathey, Cansler, Chambers, Carson, of Rutherford, Collins, Daniel, Dockery, Dobson, Elliott, Ferebee, Fisher, Faison, Franklin, Gatling, Gaither, Graves, Gaston, of Craven, Gilliam, Guinn, Grier, Gaines, Gray, Giles, Gudger, Hogan, Hargrave, Hussey, Hutcheson, Halsey, Holmes, Jervis, Jones, of Wilkes, King, Kelly, Lea, Leseuer, McQueen, Morris, McMillan, Melchor, McPherson, McDiarmid, Marchant, Morehead, Martin, Marsteller, Montgomery, Meares, Moore, Outlaw, Owen, Parker, Powell, of Robeson, Ramsay, of Pasquotank, Ramsay, of Chatham, Roulhac, Swain, Skinner, Spaight, of Craven, Stallings, Shipp, Seawell, Sherrard, Smith, of Yancy, Shoher, Troy, Toomer, White, Welch, Wilson, of Perquimons, Williams, of Person, Welborn, Wilder, Young.

NAYS—Messrs. Bonner, Baxter, Bunting, Cooper, Calvert, Edwards, Gary, Hall, Huggins, Howard, Jones, of Wake, Jacobs, Macon, Norcom, Pipkin, Ruffin, Rayner, Wilson, of Edgecomb, Williams, of Franklin, Whitfield.

The Ordinance for carrying into effect the doings of the Convention, then passed its third reading, and was referred to the Committee of Seven.

The Convention then adjourned.

SATURDAY, JULY 11, 1835.

After Prayer by the Rev. Dr. McPheeters,

Mr. GARY called up the Resolutions which he yesterday offered, returning thanks to the Authorities of the Presbyterian and Methodist Churches, for the use and offer of their Churches, and to the Rev. Dr. McPheeters and the Rev. Mr. Jamieson for their services ; which being read,

Mr. GARY moved an addition to the Resolutions, "that the Rev. Dr. McPheeters be requested to furnish a copy of the Prayer offered by him this morning in the Convention, and that the Secretary enter the same on the Journal of the Convention."

Mr. CARSON, from Burke, asked leave to move the following as an amendment to the Resolution returning thanks to the Chaplains, "and that the Rev. Dr. McPheeters and the Rev. Mr. Jamieson, be requested to accept of 50 dollars each."

The question being taken on the several propositions together, it was decided in the affirmative.

Mr. GASTON, of Craven, from the Committee of Seven, reported the Ordinance for carrying into effect the proposed amendments to the Constitution, as being correctly enrolled, which being read, was finally passed.

Mr. SWAIN being temporarily in the Chair,

Mr. GASTON, of Craven, said, that before the Convention performed the last Act, which it had to do, he would call up the Resolution that he yesterday laid on the table. He said, I am about to offer to the Convention a Resolution on which I know I shall meet with perfect unanimity. However, we may have

been divided on other subjects, in returning our acknowledgements to our venerable President, for the able manner in which he has presided over this body, there will be no difference of opinion. The following Resolution was then read :

Resolved unanimously, That the thanks of this Convention are due, and are hereby respectfully and affectionately tendered to, the Honorable NATHANIEL MACON, their venerable President, for the distinguished ability, dignity and impartiality, with which he has discharged the duties of his station.

The Resolution being read, Mr. CARSON, instantly rose and expressed a hope, that this mark of well-deserved respect to their venerable friend, for probably the last public act of his life, would be testified by the members of the Convention standing. The word was no sooner spoken, than every man in the Convention was on his feet.

The President, who had resumed his Chair, addressed the members of the Convention, as follows :

“ *Gentlemen*—The merits which you have ascribed to me, in the performance of my duty in the Chair, belong to you. I have been for a long time engaged in public business; and though no one will charge me with being a flatterer, I must say, that I have never witnessed so much good order and decorum of conduct in any public body with which I have been connected. When I entered upon the important duties to which the Convention in their kindness called me, I was fearful that I should not have been able to discharge them with any satisfaction to myself or to the Convention, nor should I, without your attentive aid and assistance. To you, therefore, my thanks are due for all your kindness.

“ This, I expect, will be the last scene of my public life.—We are about to separate; and it is my fervent prayer that you may, each of you, reach home in safety, and have a happy meeting with your family and friends, and that your days may be long, honorable and happy.

“ While my life is spared, if any of you should pass through the county in which I live, I shall be glad to see you.”

On the President's resuming his seat, and the applauses of the Convention having ceased,

Mr. CARSON, of Burke, rose and said, that the concluding remark of the venerable President had called him up to say, “ that he was about to leave old North-Carolina, to reside in the far West, where he should be happy at all times to see any friend from the old State—to be a North-Carolinian, would be a sufficient recommendation—his House and Corn-crib should be at the service of his friends.”

Mr. GASTON, from the Committee of Enrolment, reported the Amendments to the Constitution, correctly enrolled on Parch-

ment, which received the signatures of the President, Principal Secretary, and Assistant Secretary.

The President then informing the Convention that the business of the Convention was finished,

On motion of Mr. GASTON, of Craven, the Convention adjourned *sine die*.

Extract from the Prayer offered up by the Rev. Dr. McPheeters, at the close of the Convention.

“And now, O Lord, as the business of this Convention is drawing near to a close, follow with thy blessing whatever has been done in accordance with thy will, and graciously direct this day, in all that remains to be done.

“We thank thee for thy Providential care over all the members of this body, and for the high degree of order and harmony which has characterized the whole occasion.

“Give to the People of this State, before whom its amended Constitution will soon pass in review, wisdom, that they may be directed in their final action thereupon.

“Deliver them from passion, prejudice, and all unreasonable prepossessions. May they approach the question before them, with honest, liberal and enlightened views, and decide thereon, calmly, conscientiously, and in the fear of God.

“Forgive, O Lord, all that has been said or done amiss, during this occasion, and graciously prosper every measure, calculated to advance the civil, social, and religious interests of the community in which thou hast cast our lot.

“And when this body, now in session, shall have adjourned, conduct them all in safety to their respective places of abode, there again to meet in circumstances of comfort, their families, their friends, and their constituents.

“And, as they will never again all meet together on earth, prepare them, most Gracious God, for meeting in the GRAND CONVENTION of that approaching day, when the assembled Universe shall stand before God, and be judged according to their works.”

APPENDIX.

AN ACT

Concerning a Convention to amend the Constitution of the State.

WHEREAS the General Assembly of North-Carolina have reason to believe that a large portion, if not a majority, of the free men of the State, are anxious to amend the Constitution thereof, in certain particulars, hereinafter specified; and whereas while the General Assembly disclaim all right and power in themselves to alter the fundamental law, they consider it their duty to adopt measures for ascertaining the will of their constituents, and to provide the means for carrying that will into effect, when ascertained; therefore

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the Court of Pleas and Quarter Sessions of each and every county in the State, at the first term that shall be held after the first day of January, 1835, shall appoint two inspectors to superintend the polls to be opened at each and every election precinct in said counties, for ascertaining by ballot, the will of the freemen of North Carolina relative to the meeting of a State Convention. And if any Court or Courts should fail to make such appointments, or if any inspector so appointed shall fail to act, it shall be the duty of the Sheriff, or the person acting as his deputy on such occasion, with the advice of one justice of the peace, or, if none be present, with the advice of three freeholders, to appoint an inspector or inspectors in the place of him or them who failed to act, which inspectors, when duly sworn by some justice of the peace, or freeholder, to perform the duties of the place with fidelity, shall have the same authority as if appointed by the Court.

II. *Be it further enacted,* That it shall be the duty of the Sheriffs of the respective counties in this State, to open polls at the several election precincts in said counties, on Wednesday and Thursday the first and second of April next, when and where all person qualified by the Constitution to vote for members of the House of Commons, may vote for, or against a State Convention; those who wish a Convention, voting with a printed or written ticket, "Convention," and those who do not want a

Convention, voting in the same way, "No Convention," or "Against Convention."

III. *Be it further enacted*, That it shall be the duty of the Sheriffs to make out duplicate statements of their polls in their respective counties, sworn to before the clerk of the county court, one copy of which shall be deposited in said clerk's office, and the other copy transmitted to the Governor of the State, at Raleigh, immediately after the election.

IV. *Be it further enacted*, That it shall be the duty of the Governor, as soon as he shall have received the returns of the Sheriffs, in the presence of the Secretary of State, Public Treasurer and Comptroller, to compare the number of votes for and against a Convention; and if it shall appear that a majority of the votes polled are in favor of it, he shall forthwith publish a proclamation of the fact in such of the newspapers as he may think proper; and shall issue a writ of election to every Sheriff of the State, requiring him to open polls for the election of delegates in the Convention, at the same places, and under the same rules, as are prescribed for holding other State elections, and at such time as the Governor may designate.

V. *Be it further enacted*, That the same persons who were appointed to hold the polls in taking the vote on Convention, shall hold them for the election of delegates; provided, that if any of such inspectors shall fail to attend or act, the Sheriffs and their deputies shall supply their places in the manner herein before pointed out.

VI. *Be it further enacted*, That the several county courts shall allow the Sheriffs the same compensation for holding said elections, that they usually allow for holding other State elections. And if any Sheriff or other officer appointed to hold said elections, shall fail to comply with the requisitions of this act, he shall be liable to a fine of one thousand dollars, recoverable before any competent jurisdiction, to the use of the county whose officer he is; and it shall be the duty of the county solicitors to prosecute such suits.

VII. *Be it further enacted*, That all persons qualified to vote for members of the House of Commons, under the present Constitution, shall be entitled to vote for members to said Convention; and all free white men, of the age of twenty-one years, who shall have been resident in the State one year previous to, and shall continue to be so resident at the time of election, shall be eligible to a seat in said Convention: *Provided*, he possess the freehold required of a member of the House of Commons under the present Constitution.

VIII. *Be it further enacted*, That each county in this State shall be entitled to elect two delegates to said Convention, and no more.

IX. *Be it further enacted,* That if any vacancy shall occur in any county delegation, by death or otherwise, the Governor shall forthwith issue a writ to supply the vacancy. And the delegates shall convene in or near the City of Raleigh, on the first Thursday in June next; and provided that a quorum does not attend on that day, the delegates may adjourn from day to day until a quorum is present; and a majority of delegates elected shall constitute a quorum to do business.

X. *Be it further enacted,* That no delegate elect shall be permitted to take his seat in Convention, until he shall have taken and subscribed the following oath or affirmation: "I, A. B. do solemnly swear, (or affirm, as the case may be,) that I will not, either directly or indirectly, evade or disregard the duties enjoined, or the limits fixed to this Convention by the people of North Carolina, as set forth in the Act of the General Assembly, passed in 1834, entitled "An Act concerning a Convention to amend the Constitution of the State of North Carolina," which Act was ratified by the people. So help me God!"

XI. *Be it further enacted,* That the public Treasurer be, and he is hereby authorized to pay, upon the warrant of the Governor, such sums of money as may be necessary for the contingent charges of the Convention; and, also, to pay each member of the Convention, one dollar and fifty cents per day, during his attendance thereon, and five cents for every mile he may travel to and from the Convention.

XII. *Be it further enacted,* That it shall be the duty of the Governor, immediately after the ratification of this Act, to transmit a copy to each county court clerk in the State, and cause it to be published until the meeting of the Convention, in the newspapers of the State.

XIII. *Be it further enacted.* That the following propositions shall be submitted to the people for their assent or dissent to the same; the former of which shall be understood as expressed by the votes for "Convention," and the latter by the votes "No Convention," or "Against Convention," at the time and in the mode herein before provided, to wit: That the said Convention, when a quorum of the delegates who shall have been elected and assembled, shall frame and devise amendments to the Constitution of this State, so as to reduce the number of members in the Senate to not less than thirty-four, nor more than fifty, to be elected by districts; which districts shall be laid off at convenient and prescribed periods by counties, in proportion to the public taxes paid into the Treasury of the State by the citizens thereof: *Provided,* that no county shall be divided in the formation of a Senatorial district. And when there are one or more counties having an excess of taxation, above the ratio required to form a Senatorial district, adjoining a county or counties deficient in such ratio, the excess or excesses aforesaid shall be added to the taxation of the county or counties deficient;

and if, with such addition, the county or counties receiving it shall have the requisite ratio, such county and counties each shall constitute a Senatorial district. 2. That the said Convention shall frame and devise a further amendment to the said Constitution, whereby to reduce the number of members in the House of Commons to not less than ninety, nor more than one hundred and twenty; exclusive of borough members, which the Convention shall have the discretion to exclude in whole or in part, and the residue to be elected by counties or districts, or both, according to their federal population; *i. e.* according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to serve for a term of years, and excluding Indians not taxed, three-fifths of all other persons, and the enumeration to be made at convenient and prescribed periods; but each county shall have at least one member in the House of Commons, although it may not contain the requisite ratio of population.— 3. That the said Convention shall also frame and devise amendments to said Constitution, whereby it shall be made necessary for persons voting for a Senator, and persons eligible to the Senate, to possess the same residence and freehold qualification respectively in the Senatorial district, as is now required in the county: *Provided*, that they shall not in any manner disqualify any of the free white men of this State from voting for members in the House of Commons who are qualified to vote under the existing Constitution of this State. 4. That said Convention may also consider of, and in their discretion propose the following other amendments to the said Constitution, or any of them to wit: So as,

1st. To abrogate or restrict the right of free negroes or mulattoes to vote for members of the Senate or House of Commons. 2d. To disqualify members of the Assembly and officers of the State, or those who hold places of trust under the authority of this State, from being or continuing such, while they hold any other office or appointment under the Government of this State or of the United States, or any other Government whatsoever.— 3d. To provide that capitation tax on slaves and free white polls shall be equal throughout the State. 4th. To provide for some mode of appointing and removing from office militia officers and justices of the peace, different from that which is now practised. 5th. To compel the members of the General Assembly to vote *viva voce* in the election of officers whose appointment is conferred on that body. 6th. To amend the thirty-second article of the Constitution of the State. 7th. To provide for supplying vacancies in the General Assembly of this State, when such vacancies occur by resignation or death, or otherwise, before the meeting of the General Assembly. 8th. To provide for biennial meetings, instead of annual meetings of the General Assembly; and if they shall determine on biennial sessions, then they may alter the Con-

stitution in such parts of it as require the annual election of members of Assembly and officers of State, and the triennial election of Secretary of State, and provide for their election every two years. 9th. To provide for the election of Governor of the State by the qualified voters for the members of the House of Commons, and to prescribe the term for which the Governor shall be elected, and the number of terms during which he shall be eligible. And the said Convention shall adopt ordinances for carrying into effect the amendments which shall be made, and shall submit such amendments to the determination of all the qualified voters of the State; but they shall not alter any other Article of the Constitution or Bill of Rights, nor propose any amendments to the same, except those which are herein before enumerated.

XIV. *Be it further enacted*, That if a majority of voters at the election first directed to be held by this Act, shall be found "for Convention," it shall be considered and understood that the people, by their vote as aforesaid, have conferred on the delegates to said Convention the power and authority to make alterations and amendments in the existing Constitution of the State, in the particulars herein enumerated, or any of them, but in no others.

XV. *Be it further enacted*, That the said Convention, after having adopted amendments to the Constitution, in any or all of said particulars, shall prescribe some mode for the ratification of the same by the people or their representatives; and shall prescribe all necessary ordinances and regulations for the purpose of giving full operation and effect to the Constitution as altered and amended.

XVI. *Be it further enacted*, That the Convention shall provide in what manner amendments shall in future be made to the Constitution of the State,

AN ACT,

Supplemental to an Act, passed at the present Session, entitled "An Act concerning a Convention to amend the Constitution of the State of North-Carolina."

Be it enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That the following propositions shall be submitted to the people for their assent or dissent, in the same manner, and under the same forms, regulations and restrictions as were prescribed and adopted in an Act, passed at the present Session, entitled "An Act concerning a Convention to amend the Constitution of the State of North-Carolina," that the said Convention may, in their discretion, devise and propose the following Amendments to the said Constitution, or any of them, so as—1. To provide that the Attorney General shall be elected for a term of years. 2. To

provide a tribunal whereby the Judges of the Supreme and Superior Courts, and other Officers of the State, may be impeached and tried for corruption and mal-practices in office. 3. To provide, that upon conviction of any Justice of the Peace of any infamous crime, or of corruption and mal-practice in office, his commission shall be vacated, and said Justice rendered forever disqualified from holding such appointment. 4. To provide for the removal of any of the Judges of the Supreme or Superior Courts in consequence of mental or physical inability, upon a concurrent resolution of two-thirds of both branches of the Legislature.— 5. To provide that the salaries of the Judges shall not be diminished during their continuance in office. 6. And to provide against unnecessary private legislation. 7. To provide that no Judge of the Supreme or Superior Courts shall, whilst retaining their Judicial office, be eligible to any other, except to the Supreme Court Bench.

II. *And be it further enacted,* That should the people decide in favor of a call of a Convention, as is provided for in the before referred to Act, the said Convention is hereby authorised and empowered to consider of, and, in their discretion, propose the above additional amendments to the said Constitution, or any of them.

CONSTITUTION OF NORTH-CAROLINA,

Adopted December 17, 1776:

And the Amendments made thereto by the Convention which assembled at Raleigh, June 4, 1835.

DECLARATION OF RIGHTS,

MADE BY THE

Representatives of the Freemen of the State of North-Carolina.

Section 1. That all political power is vested in, and derived from the people only.

Sec. 2. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

Sec. 3. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.

Sec. 4. That the Legislative, Executive, and Supreme Judicial powers of Government, ought to be forever separate and distinct from each other.

Sec. 5. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Sec. 6. That elections of Members to serve as Representatives in General Assembly, ought to be free.

Sec. 7. That in all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.

Sec. 8. That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment.

Sec. 9. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury, of good and lawful men, in open court, as heretofore used.

Sec. 10. That excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

Sec. 11. That general warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the fact committed, or to seize any person or

persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Sec. 12. That no freeman ought to be taken, imprisoned or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the law of the land.

Sec. 13. That every freeman restrained of his liberty, is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same if unlawful, and that such remedy ought not to be denied or delayed.

Sec. 14. That in all controversies at law respecting property, the ancient mode of trial by jury, is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

Sec. 15. That the freedom of the Press is one of the great bulwarks of liberty, and therefore, ought never to be restrained.

Sec. 16. That the people of this State ought not to be taxed or made subject to the payment of any impost or duty without the consent of themselves or their Representatives in General Assembly, freely given.

Sec. 17. That the people have a right to bear arms for the defence of the State; and, as standing armies in time of peace, are dangerous to liberty, they ought not to be kept up; and that the Military should be kept under strict subordination to, and governed by, the Civil power.

Sec. 18. That the people have a right to assemble together, to consult for their common good, to instruct their Representatives, and to apply to the Legislature, for redress of grievances.

Sec. 19. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences.

Sec. 20. That for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

Sec. 21. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Sec. 22. That no hereditary emoluments, privileges or honors, ought to be granted or conferred in this State.

Sec. 23. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

Sec. 24. That retrospective laws, punishing facts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty, wherefore, no *ex post facto* law ought to be made.

Sec. 25. The property of the soil in a free government, being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the State should be ascertained with precision; and as the former temporary line between *North* and *South Carolina*

was confirmed and extended by Commissioners appointed by the Legislatures of the two States, agreeable to the order of the late King *George* the Second, in Council, that line, and that only, should be esteemed the Southern boundary of this State, as follows : *that is to say*, beginning on the sea side, at a Cedar stake, at or near the mouth of *Little River*, being the southern extremity of *Brunswick* county, and running from thence, a north-west course through the boundary house, which stands in thirty-three degrees fifty-six minutes, to thirty-five degrees north latitude; and from thence a west course, so far as is mentioned in the Charter of King *Charles* the Second, to the late proprietors of *Carolina*. Therefore, all the territories, seas, waters and harbors, with their appurtenances, lying between the line above described, and the southern line of the State of *Virginia*, which begins on the sea shore in thirty-six degrees thirty minutes north latitude, and from thence runs west, agreeable to the said Charter of King *Charles*, are the right and property of the people of this State, to be held by them in sovereignty, any partial line without the consent of the Legislature of this State, at any time thereafter directed or laid out, in any wise notwithstanding. *Provided always*, That this declaration of right shall not prejudice any nation or nations of *Indians* from enjoying such hunting grounds, as may have been, or hereafter shall be secured to them by any former or future Legislature of this State. *And provided also*, That it shall not be construed so as to prevent the establishment of one or more Governments westward of this State, by consent of the Legislature. *And provided further*, That nothing herein contained, shall affect the titles or possessions of individuals, holding or claiming under the laws heretofore in force, or grants heretofore made by the late King *George* the Third, or his predecessors, or the late Lords Proprietors or any of them.

*December the seventeenth day, Anno
Dom. one thousand, seven hundred
and seventy-six, read the third time
and ratified in open Congress.*

R. CASWELL, *Prest.*

JAMES GREEN, JUN. *Secretary.*

CONSTITUTION OF NORTH-CAROLINA.

☞ Those Sections to which material Amendments are made, are printed in *Italics*.

The CONSTITUTION OF FORM OF GOVERNMENT, agreed to and resolved upon, by the Representatives of the Freemen of the State of North-Carolina, elected and chosen for that particular purpose, in Congress assembled, at Halifax, the eighteenth day of December, in the year of our Lord, one thousand seven hundred and seventy-six.

WHEREAS allegiance and protection are in their nature reciprocal, and the one should of right be refused when the other is withdrawn: And whereas *George* the Third, King of *Great Britain*, and late Sovereign of the *British American Colonies*, hath not only withdrawn from them his protection, but by an Act of the *British* Legislature, declared the inhabitants of these States out of the protection of the *British* Crown, and all their property found upon the high seas liable to be seized and confiscated to the uses mentioned in the said Act. And the said *George* the Third has also sent fleets and armies to prosecute a cruel war against them, for the purpose of reducing the inhabitants of the said Colonies to a state of abject slavery. In consequence whereof, all Government under the said King within the said Colonies, hath ceased, and a total dissolution of Government in many of them hath taken place. And whereas the Continental Congress having considered the premises, and other previous violations of the rights of the good People of *America*, have therefore declared that the Thirteen United Colonies are, of right, wholly absolved from all allegiance to the *British* Crown, or any other foreign jurisdiction whatsoever, and that the said Colonies now are and forever shall be, free and independent States: Wherefore, in our present state, in order to prevent anarchy and confusion, it becomes necessary that a Government should be established in this State: Therefore, we, the Representatives of the Freemen of *North-Carolina*, chosen and assembled in Congress for the express purpose of framing a Constitution, under the authority of the People, most conducive to their happiness and prosperity, do declare

that a Government for this State shall be established in manner and form following, to wit :

Section the first.—That the Legislative authority shall be vested in two distinct branches, both dependent on the People, to wit : a Senate and House of Commons.

Sec. 2. That the Senate shall be composed of Representatives annually chosen by ballot, one from each *County* in this State.

Sec. 3. That the House of Commons shall be composed of Representatives annually chosen by ballot, *two for each County, and one for each of the Towns of Edenton, Newbern, Wilmington, Salisbury, Hillsborough and Halifax.*

Sec. 4. That the Senate and House of Commons, assembled for the purpose of Legislation, shall be denominated the General Assembly.

Sec. 5. That each member of the Senate shall have usually resided in the *County* in which he is chosen, for one year immediately preceding his election ; and for the same time shall have possessed, and continue to possess, in the *County* which he represents, not less than three hundred acres of land in fee.

Sec. 6. That each member of the House of Commons shall have usually resided in the county in which he is chosen, for one year immediately preceding his election, and for six months shall have possessed, and continue to possess, in the County which he represents, not less than one hundred acres of land in fee, or for the term of his own life.

Sec. 7. That all *freemen* of the age of twenty-one years, who have been inhabitants of any one *County* within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same *County*, of fifty acres of land for six months next before and at the day of election, shall be entitled to vote for a member of the Senate.

Sec. 8. That all *freemen* of the age of twenty-one years, who have been inhabitants of any *County* within this State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the House of Commons for the county in which he resides.

Sec. 9. That all persons possessed of a freehold in any *Town* in this State, having a right of representation, and also all *freemen* who have been inhabitants of any such town twelve months next before and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such *Town* in the House of Commons. *Provided always, That this section shall not entitle any inhabitant of such Town to vote for members of the House of Commons for the county in which he may reside, nor any freeholder in such county, who resides without or beyond the limits of such town, to vote for a member for said Town.*

Sec. 10. That the Senate and House of Commons, when met, shall each have power to choose a Speaker and other their offi-

cers, be judges of the qualifications and elections of their members, sit upon their own adjournment from day to day, and prepare bills to be passed into laws. The two Houses shall direct writs of elections for supplying intermediate vacancies, and shall also jointly, by ballot, adjourn themselves to any future day and place.

Sec. 11. That all bills shall be read three times in each House before they pass into laws, and be signed by the Speaker of both Houses.

Sec. 12. That every person who shall be chosen a member of the Senate or House of Commons, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the State; and all officers shall also take an oath of office.

Sec. 13. That the General Assembly shall, by joint ballot of both Houses, appoint Judges of the Supreme Courts of Law and Equity, Judges of Admiralty, and *Attorney General*, who shall be commissioned by the Governor, and hold their offices during good behaviour.

Sec. 14. That the Senate and House of Commons shall have power to appoint the Generals and Field Officers of the Militia, and all Officers of the Regular Army of this State.

Sec. 15. That the Senate and House of Commons jointly, at their first meeting after each annual election, shall by ballot elect a Governor for one year, who shall not be eligible to that office longer than three years in six successive years: That no person under thirty years of age, and who has not been a resident in this State above five years, and having in the State a freehold in lands and tenements above the value of one thousand pounds, shall be eligible as Governor.

Sec. 16. That the Senate and House of Commons jointly, at their first meeting after each annual election, shall by ballot elect seven persons to be a Council of State for one year, who shall advise the Governor in the execution of his office; and that four members shall be a quorum; their advice and proceedings shall be entered in a Journal to be kept for that purpose only, and signed by the members present; to any part of which any member present may enter his dissent; and such Journal shall be laid before the General Assembly when called for by them.

Sec. 17. That there shall be a Seal of this State, which shall be kept by the Governor, and used by him as occasion may require, and shall be called the Great Seal of the State of North Carolina, and be affixed to all Grants and Commissions.

Sec. 18. That the Governor for the time being, shall be Captain General and Commander in Chief of the Militia; and in the recess of the General Assembly, shall have power, by and with the advice of the Council of State, to embody the militia for the public safety.

Sec. 19. That the Governor for the time being, shall have power to draw for and supply such sums of money as shall be voted by the General Assembly for the contingencies of Government, and be accountable to them for the same; he also may, by and with the advice of the Council of State, lay embargoes, or prohibit the exportation of any commodity, for any term not exceeding thirty days at any one time, in the recess of the General Assembly, and shall have the power of granting pardons and reprieves, except where the prosecution shall be carried on by the General Assembly, or the law shall otherwise direct; in which case, he may, in the recess, grant a reprieve until the next sitting of the General Assembly; and may exercise all the other Executive powers of Government, limited and restrained as by this Constitution is mentioned, and according to the laws of the State; and on his death, inability, or absence from the State, the Speaker of the Senate for the time being, and in case of his death, inability, or absence from the State, the Speaker of the House of Commons shall exercise the powers of the Governor, after such death, or during such absence or inability of the Governor or Speaker of the Senate, *or until a new nomination is made by the General Assembly.*

Sec. 20. That in every case where any officer, the right of whose appointment is, by this Constitution vested in the General Assembly, shall, during their recess, die, or his office by other means become vacant, the Governor shall have power, with the advice of the Council of State, to fill up such vacancy by granting a temporary commission, which shall expire at the end of the next session of the General Assembly.

Sec. 21. That the Governor, Judges of the Supreme Courts of Law and Equity, Judges of Admiralty and Attorney General, shall have adequate salaries during their continuance in office.

Sec. 22. That the General Assembly shall, by joint ballot of both Houses, *annually* appoint a Treasurer or Treasurers for this State.

Sec. 23. That the Governor and other officers offending against the State, by violating any part of this Constitution, mal-administration or corruption, may be prosecuted on the impeachment of the General Assembly, presentment of the Grand Jury of any Court of Supreme jurisdiction in this State.

Sec. 24. That the General Assembly shall, by joint ballot of both Houses, *triennially* appoint a Secretary for this State.

Sec. 25. That no persons who heretofore have been or hereafter may be, receivers of the public monies, shall have a seat in either House of General Assembly, or be eligible to any office in this State, until such person shall have fully accounted for and paid into the Treasury, all sums for which they may be accountable and liable.

Sec. 26. That no Treasurer shall have a seat in either the Senate, House of Commons, or Council of State, during his continuance in that office, or before he shall have finally settled his accounts with the public, for all monies which may be in his hands, at the expiration of his office, belonging to the State, and hath paid the same into the hands of the succeeding Treasurer.

Sec. 27. That no Officer in the Regular Army or Navy, in the service and pay of the United States, of this or any other State, or any contractor or agent for supplying such Army or Navy with clothing or provisions, shall have a seat in either the Senate, House of Commons, or Council of State, or be eligible thereto; and any member of the Senate, House of Commons, or Council of State, being appointed to and accepting of such office, shall thereby vacate his seat.

Sec. 28. That no member of the Council of State shall have a seat either in the Senate or House of Commons.

Sec. 29. That no Judge of the Supreme Court of Law or Equity, or Judge of Admiralty, shall have a seat in the Senate, House of Commons, or Council of State.

Sec. 30. That no Secretary of this State, Attorney General or Clerk of any Court of Record, shall have a seat in the Senate, House of Commons, or Council of State.

Sec. 31. That no Clergyman, or Preacher of the Gospel, of any denomination, shall be capable of being a member of either the Senate, House of Commons, or Council of State, while he continues in the exercise of the Pastoral function.

Sec. 32. That no person who shall deny the being of God, or the truth of the *Protestant* Religion, or the divine authority either of the Old or New Testament, or who shall hold Religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office or place of trust or profit in the Civil department within this State.

Sec. 33. That the Justices of the Peace, within the respective counties in this State, shall in future be recommended to the Governor for the time being by the Representatives in General Assembly, and the Governor shall commission them accordingly: And the Justices, when so commissioned, shall hold their offices during good behaviour, and shall not be removed from office by the General Assembly, unless for misbehaviour, absence or inability.

Sec. 34. That there shall be no establishment of any one Religious Church or denomination in this State in preference to any other; neither shall any person, on any pretence whatsoever, be compelled to attend any place of worship, contrary to his own faith or judgment; nor be obliged to pay for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged

to perform; but all persons shall be at liberty to exercise their own mode of worship: *Provided*, that nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses from legal trial and punishment.

Sec. 35. That no person in the State shall hold more than one lucrative office at any one time. *Provided*, That no appointment in the Militia or to the office of a Justice of the Peace, shall be considered as a lucrative office.

Sec. 36. That all Commissions and Grants shall run in the name of the State of North Carolina and bear test and be signed by the Governor. All writs shall run in the same manner, and bear test and be signed by the Clerks of the respective Courts. Indictments shall conclude, against the peace and dignity of the State.

Sec. 37. That the Delegates for this State to the Continental Congress, while necessary, shall be chosen annually by the General Assembly, by ballot, but may be superseded in the mean time, in the same manner: and no person shall be elected to serve in that capacity for more than three years successively.

Sec. 38. That there shall be a Sheriff, Coroner or Coroners, and Constables, in each county within this State.

Sec. 39. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law. All prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, or presumption great.

Sec. 40. That every foreigner, who comes to settle in this State, having first taken an oath of allegiance to the same, may purchase, or by other just means acquire, hold and transfer land or other real estate; and after one year's residence, shall be deemed a free citizen.

Sec. 41. That a school or schools shall be established by the Legislature for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and all useful learning shall be duly encouraged and promoted in one or more Universities.

Sec. 42. That no purchase of lands shall be made of the Indian natives, but on behalf of the public, by authority of the General Assembly.

Sec. 43. That the future Legislature of this State shall regulate entails in such a manner as to prevent perpetuities.

Sec. 44. That the declaration of rights is hereby declared to be part of the Constitution of this State, and ought never to be violated on any pretence whatever.

Sec. 45. That any member of either house of the General Assembly shall have liberty to dissent from and protest against any act or resolve which he may think injurious to the public, or any

individual, and have the reasons of his dissent entered on the Journals.

Sec. 46. That neither House of the General Assembly shall proceed upon public business, unless a majority of all the members of such House are actually present; and that upon a motion made and seconded, the Yeas and Nays upon any question shall be taken and entered on the Journals; and that the Journals of the Proceedings of both Houses of the General Assembly, shall be printed and made public, immediately after their adjournment.

This Constitution is not intended to preclude the present Congress from making a temporary provision for the well ordering of this State, until the General Assembly shall establish Government agreeable to the mode herein before prescribed.

*December the eighteenth, one
thousand seven hundred and
seventy-six, read the third
time and ratified in open
Congress.*

R. CASWELL, *President.*

JAMES GREEN, Jun. *Secretary.*

AMENDMENTS TO THE CONSTITUTION,

AS RATIFIED BY THE PEOPLE.

WHEREAS the General Assembly of North-Carolina, by an Act, passed the sixth day of January, one thousand eight hundred and thirty-five, entitled "An Act concerning a Convention to amend the Constitution of the State," and by an Act, supplemental thereto, passed on the eighth day of January, one thousand eight hundred and thirty-five, did direct that polls should be opened in every election precinct throughout the State, for the purpose of ascertaining whether it was the will of the freemen of North-Carolina that there should be a Convention of Delegates, to consider of certain Amendments proposed to be made in the Constitution of said State; and did further direct, that if a majority of all the votes polled by the freemen of North-Carolina should be in favor of holding such Convention, the Governor should, by Proclamation, announce the fact, and thereupon the freemen aforesaid should elect Delegates to meet in Convention at the City of Raleigh, on the first Thursday in June, one thousand eight hundred and thirty-five, to consider of the said amendments: And whereas a majority of the freemen of North Carolina did, by their votes at the polls so opened, declare their will that a Convention should be had to consider of the amendments proposed, and the Governor did, by Proclamation, announce the fact that their will had been so declared, and an election for Delegates to meet in Convention as aforesaid, was accordingly had. Now,

therefore, we, the Delegates of the good People of North Carolina, having assembled in Convention, at the City of Raleigh, on the first Thursday in June, one thousand eight hundred and thirty-five, and having continued in session from day to day, until the eleventh of July, one thousand eight hundred and thirty-five, for the more deliberate consideration of said amendments, do now submit to the determination of all the qualified voters of the State, the following amendments in the Constitution thereof, that is to say:

ARTICLE I.

SECTION 1.

§ 1. The Senate of this State shall consist of fifty Representatives, biennially chosen by ballot, and to be elected by districts; which districts shall be laid off by the General Assembly, at its first session after the year one thousand eight hundred and forty-one; and afterwards, at its first session after the year one thousand eight hundred and fifty-one; and then every twenty years thereafter, in proportion to the public taxes paid into the Treasury of the State by the citizens thereof; and the average of the public taxes paid by each county into the Treasury of the State, for the five years preceding the laying off of the districts, shall be considered as its proportion of the public taxes, and constitute the basis of apportionment: *Provided*, that no county shall be divided in the formation of a Senatorial district. And when there are one or more counties, having an excess of taxation above the ratio to form a Senatorial district, adjoining a county or counties deficient in such ratio, the excess or excesses aforesaid shall be added to the taxation of the county or counties deficient; and if, with such addition, the county or counties receiving it shall have the requisite ratio, such county and counties each shall constitute a Senatorial district.

§ 2. The House of Commons shall be composed of one hundred and twenty Representatives, biennially chosen by ballot, to be elected by counties according to their federal population, that is, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons; and each county shall have at least one member in the House of Commons, although it may not contain the requisite ratio of population.

§ 3. This apportionment shall be made by the General Assembly, at the respective times and periods when the districts for the Senate are herein before directed to be laid off; and the said apportionment shall be made according to an enumeration to be ordered by the General Assembly, or according to the Census which may be taken by order of Congress, next preceding the period of making such apportionment.

§ 4. In making the apportionment in the House of Commons, the ratio of representation shall be ascertained by dividing the

amount of Federal population of the State, after deducting that comprehended within those counties which do not severally contain the one hundred and twentieth part of the entire Federal population aforesaid, by the number of Representatives less than the number assigned to the said counties. To each county containing the said ratio, and not twice the said ratio, there shall be assigned one representative; to each county containing twice, but not three times the said ratio, there shall be assigned two Representatives, and so on progressively, and then the remaining Representatives shall be assigned severally to the counties having the largest fractions.

SECTION 2.

§ 1. Until the first Session of the General Assembly which shall be had after the year eighteen hundred and forty-one, the Senate shall be composed of members to be elected from the several districts herein after named, that is to say: the 1st district shall consist of the counties of Perquimons and Pasquotank; the 2d district, of Camden and Currituck; the 3d district, of Gates and Chowan; the 4th district, Washington and Tyrrell; the 5th district, Northampton; the 6th district, Hertford; the 7th district, Bertie; the 8th district, Martin; the 9th district, Halifax; the 10th district, Nash; the 11th district, Wake; the 12th district, Franklin; the 13th district, Johnston; the 14th district, Warren; the 15th district, Edgecomb; the 16th district, Wayne; the 17th district, Greene and Lenoir; the 18th district, Pitt; the 19th district, Beaufort and Hyde; the 20th district, Carteret and Jones; the 21st district, Craven; the 22d district, Chatham; the 23d district, Granville; the 24th district, Person; the 25th district, Cumberland; the 26th district, Sampson; the 27th district, New-Hanover; the 28th district, Duplin; the 29th district, Onslow; the 30th district, Brunswick, Bladen and Columbus; the 31st district, Robeson and Richmond; the 32d district, Anson; the 33d district, Cabarrus; the 34th district, Moore and Montgomery; the 35th district, Caswell; the 36th district, Rockingham; the 37th district, Orange; the 38th district, Randolph; the 39th district, Guilford; the 40th district, Stokes; the 41st district, Rowan; the 42d district, Davidson; the 43d district, Surry; the 44th district, Wilkes and Ashe; the 45th district, Burke and Yancy; the 46th district, Lincoln; the 47th district, Iredell; the 48th district, Rutherford; the 49th district, Buncombe, Haywood and Macon; and the 50th district, Mecklenburg; each district to be entitled to one Senator.

§ 2. Until the first Session of the General Assembly after the year eighteen hundred and forty-one, the House of Commons shall be composed of members elected from the counties in the following manner, viz: The counties of Lincoln and Orange shall elect four members each. The counties of Burke, Chatham, Granville, Guilford, Halifax, Iredell, Mecklenburg, Rowan,

Rutherford, Surry, Stokes and Wake, shall elect three members each. The counties of Anson, Beaufort, Bertie, Buncombe, Cumberland, Craven, Caswell, Davidson, Duplin, Edgecomb, Franklin, Johnston, Montgomery, New Hanover, Northampton, Person, Pitt, Randolph, Robeson, Richmond, Rockingham, Sampson, Warren, Wayne and Wilkes, shall elect two members each. The counties of Ashe, Bladen, Brunswick, Camden, Columbus, Chowan, Currituck, Carteret, Cabarrus, Gates, Greene, Haywood, Hertford, Hyde, Jones, Lenoir, Macon, Moore, Martin, Nash, Onslow, Pasquotank, Perquimons, Tyrrell, Washington and Yancy, shall elect one member each.

SECTION 3.

§ 1. Each member of the Senate shall have usually resided in the district for which he is chosen for one year immediately preceding his election, and for the same time shall have possessed and continue to possess in the district which he represents not less than three hundred acres of land in fee.

§ 2. All free men of the age of twenty-one years, (except as is hereinafter declared,) who have been inhabitants of any one district within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same district of fifty acres of land for six months next before and at the day of election, shall be entitled to vote for a member of the Senate.

§ 3. No free negro, free mulatto, or free person of mixed blood, descended from negro ancestors to the fourth generation inclusive (though one ancestor of each generation may have been a white person,) shall vote for members of the Senate or House of Commons.

SECTION 4.

§ 1. In the election of all officers whose appointment is conferred on the General Assembly by the Constitution, the vote shall be *viva voce*.

§ 2. The General Assembly shall have power to pass laws regulating the mode of appointing and removing Militia officers.

§ 3. The General Assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

§ 4. The General Assembly shall not have power to pass any private law, to alter the name of any person, or to legitimate any persons not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime; but shall have power to pass general laws regulating the same.

§ 5. The General Assembly shall not pass any private law, unless it shall be made to appear that thirty days notice of application to pass such law shall have been given, under such directions and in such manner as shall be provided by law.

§ 6. If vacancies shall occur by death, resignation or otherwise, before the meeting of the General Assembly, writs may be issued by the Governor, under such regulations as may be prescribed by law.

§ 7. The General Assembly shall meet biennially, and at each biennial session shall elect, by joint vote of the two Houses, a Secretary of State, Treasurer and Council of State, who shall continue in office for the term of two years.

ARTICLE II.

§ 1. The Governor shall be chosen by the qualified voters for the members of the House of Commons, at such time and places as members of the General Assembly are elected.

§ 2. He shall hold his office for the term of two years from the time of his installation, and until another shall be elected and qualified; but he shall not be eligible more than four years in any term of six years.

§ 3. The returns of every election for Governor shall be sealed up and transmitted to the seat of Government, by the returning officers, directed to the Speaker of the Senate, who shall open and publish them in the presence of a majority of the members of both Houses of the General Assembly. The person having the highest number of votes, shall be Governor; but if two or more shall be equal and highest in votes, one of them shall be chosen Governor by joint vote of both Houses of the General Assembly.

§ 4. Contested elections for Governor shall be determined by both Houses of the General Assembly, in such manner as shall be prescribed by law.

§ 5. The Governor elect shall enter on the duties of the office on the first day of January next after his election, having previously taken the oaths of office in presence of the members of both branches of the General Assembly, or before the Chief Justice of the Supreme Court, who, in case the Governor elect should be prevented from attendance before the General Assembly, by sickness or other unavoidable cause, is authorised to administer the same.

ARTICLE III.

SECTION 1.

§ 1. The Governor, Judges of the Supreme Court, and Judges of the Superior Courts, and all other officers of this State, (except Justices of the Peace and Militia officers.) may be impeached for wilfully violating any Article of the Constitution, mal-administration or corruption.

§ 2. Judgment, in case of Impeachment, shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party convicted, may, nevertheless, be liable to indictment, trial, judgment and punishment according to law.

§ 3. The House of Commons shall have the sole power of impeachment. The Senate shall have the sole power to try all impeachments; no person shall be convicted upon any impeachment, unless two-thirds of the Senators present shall concur in such conviction; and before the trial of any impeachment, the members of the Senate shall take an oath or affirmation truly and impartially to try and determine the charge in question according to evidence.

SECTION 2.

§ 1. Any Judge of the Supreme Court, or of the Superior Courts, may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both branches of the General Assembly. The Judge, against whom the Legislature may be about to proceed, shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either branch of the General Assembly shall act thereon.

§ 2. The salaries of the Judges of the Supreme Court, or of the Superior Courts, shall not be diminished during their continuance in office.

SECTION 3.

Upon the conviction of any Justice of the Peace, of any infamous crime, or of corruption and malpractice in office, the commission of such Justice shall be thereby vacated, and he shall be forever disqualified from holding such appointment.

SECTION 4.

The General Assembly, at its first session after the year one thousand eight hundred and thirty-nine, and from time to time thereafter, shall appoint an Attorney General, who shall be commissioned by the Governor, and shall hold his office for the term of four years; but if the General Assembly should hereafter extend the term during which Solicitors of the State shall hold their offices, then they shall have power to extend the term of office of the Attorney General to the same period.

ARTICLE IV.

SECTION 1.

§ 1. No Convention of the People shall be called by the General Assembly, unless by the concurrence of two-thirds of all the members of each House of the General Assembly.

§ 2. No part of the Constitution of this State shall be altered, unless a Bill to alter the same shall have been read three times in each House of the General Assembly, and agreed to by three-fifths of the whole number of members of each House respectively; nor shall any alteration take place until the Bill so agreed to shall have been published six months previous to a new election of members to the General Assembly. If, after such publication,

the alteration proposed by the preceding General Assembly, shall be agreed to in the first session thereafter by two-thirds of the whole representation in each House of the General Assembly, after the same shall have been read three times on three several days in each House, then the said General Assembly shall prescribe a mode by which the Amendment or Amendments may be submitted to the qualified voters of the House of Commons throughout the State; and if, upon comparing the votes given in the whole State, it shall appear that a majority of the voters have approved thereof, then, and not otherwise, the same shall become a part of the Constitution.

SECTION 2.

The thirty-second section of the Constitution shall be amended to read as follows: No person who shall deny the being of God, or the truth of the Christian Religion, or the divine authority of the Old or New Testament, or who shall hold religious principles incompatible with the freedom or safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State.

SECTION 3.

§ 1. Capitation tax shall be equal throughout the State upon all individuals subject to the same.

§ 2. All free males over the age of twenty-one years, and under the age of forty-five years, and all slaves over the age of twelve years, and under the age of fifty years, shall be subject to Capitation tax, and no other person shall be subject to such tax; provided that nothing herein contained shall prevent exemptions of taxable polls as heretofore prescribed by law in cases of bodily infirmity.

SECTION 4.

No person who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State, or any other State or Government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either House of the General Assembly: *Provided*, that nothing herein contained shall extend to officers in the Militia, or Justices of the Peace.

Ratified in Convention, this eleventh day of July, in the year of our Lord, one thousand eight hundred and thirty-five.

NATH'L MACON, *Pres.*

EDMUND B. FREEMAN,

Secretary of the Convention.

JOSEPH D. WARD, *Assistant Secretary.*

VOTE OF THE PEOPLE

ON THE

Question of Ratification or Rejection of the New Constitution.

	<i>Ratification.</i>	<i>Rejection.</i>		<i>Ratification.</i>	<i>Rejection.</i>
Anson,	815	44	Moore,	110	370
Ashe,	466	88	Macon,	502	19
Brunswick,	—	466	Montgomery,	538	103
Buncombe,	1322	22	Mecklenburg,	1097	67
Burke,	1359	1	Martin,	14	795
Beaufort,	90	639	New-Hanover,	54	365
Bladen,	6	564	Nash,	8	757
Bertie,	96	315	Northampton,	12	286
Craven,	131	270	Onslow,	97	357
Carteret,	32	332	Orange,	1031	246
Currituck,	22	115	Person,	180	287
Camden,	61	333	Pasquotank,	7	442
Caswell,	466	162	Pitt,	32	710
Chowan,	7	322	Perquimons,	10	431
Chatham,	556	200	Rowan,	1570	24
Cumberland,	331	439	Randolph,	426	163
Columbus,	3	391	Rockingham,	612	68
Cabarrus,	598	46	Robeson,	86	458
Duplin,	56	532	Richmond,	263	43
Davidson,	1034	33	Rutherford,	1557	2
Edgecomb,	29	1324	Sampson,	148	463
Franklin,	85	617	Surry,	1751	4
Guilford,	971	237	Stokes,	1061	71
Gates,	12	502	Tyrrell,	1	459
Granville,	433	308	Washington,	14	409
Greene,	9	423	Wilkes,	1757	8
Halifax,	239	441	Wake,	243	1124
Hertford,	7	376	Warren,	46	580
Hyde,	2	431	Wayne,	28	966
Haywood,	481	8	Yancy,	564	13
Iredell,	1194	18			
Jones,	22	239		26,771	21,606
Johnston,	73	776		21,606	
Lincoln,	1887	42			
Lenoir,	54	320			
			Majority,	5,165	



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